United States Court of Appeals

for the Second Circuit

EXHIBITS

UNITED STATES COURT OF APPEALS
FILED
NOV 19 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

No. 76-6150

B P/S

United States Court of Appeals

FOR THE SECOND CIRCUIT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, *Plaintiff-Appellee*

v.

LOCAL 14, INTERNATIONAL UNION OF OPERATING ENGINEERS;
LOCAL 15, INTERNATIONAL UNION OF OPERATING ENGINEERS;
ET AL., *Defendants-Appellants*

On Appeal from the United States District Court for the Southern District of New York

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[redacted]

[redacted]

EXHIBIT VOLUME 3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	Before: HON. CHARLES H. TENNEY, District Judge
Plaintiff	
vs.	72 CIVIL 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, ET AL.,	
Defendants.	

U.S. DISTRICT COURT
FILED
NOV 18 1974
S. D. C.

New York, October 2,3,4,7,8, 1974

STENOGRAPHER'S MINUTES

137

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
vs. 72 Civ. 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants.

New York, October 2, 1974;
10.15 A.M.

Trial resumed.

- -

MR. DEVORKIN: Good morning, your Honor.

The plaintiff calls Samuel Hibbert.

S A M U E L H I B B E R T, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Hibbert, where do you now live?

A I live in Queens, 999-21 Northern Boulevard.

Q How old are you?

A 25.

Q Just for the record, what is your race?

A Black.

Q Where are you now working?

A Castle's Garage.

Q New York?

A Yes.

Q Where were you born?

A Born in Atlanta, Georgia.

Q Where did you grow up?

A In Jamaica.

Q Are you a United States citizen?

A Yes.

Q When did you return to the United States?

A 1967.

Q When you returned to the United States, did you ever seek training as a heavy equipment operator?

A Yes, I do.

Q When was that?

A 1974, this year.

Q What did you do?

A I went to the Ryder School and requested some information about their heavy equipment.

Q Where was the school located when you went to ask for information?

A They had like a main office, one of those little offices set up in 44th Street, in New York.

Q Did you ever enroll in any program of theirs?

A Yes. I enrolled for the heavy equipment operator.

Q What kind of program was that?

A For operating?

Q Yes.

A Bulldozers and scrapers and front-end loaders.

Q Was it practical training or written manual training or some other kind of training?

A It was both, practical and written.

Q You have to keep your voice up now.

What did the written manual training consist of?

A The written training consisted of dozers, scrapers, cranes, various machines.

Q What did the training itself actually consist of? What did they have you do?

A In the school we do bulldozing, we did scrapers, like making grades, front-end loaders, we did excavating, moving earth.

Q How long were you in the school getting practical experience?

A I was in the school for four weeks.

Q Where was the school located?

A In Ardmore, Oklahoma.

Q Did you pay your way out there?

A Yes.

Q Did you pay anything for the course itself?

A Yes. The course was $995.

Q Was there a written course, any course that you

took before you went out to the practical school?

A Yes. I had to do the home study course.

Q How long did that last?

A It lasted approximately a year.

Q Did you have any materials they supplied you?

A Yes.

Q For that home study course?

A Yes.

Q Did you complete those two courses?

A Yes, I did complete those two courses.

Q Mr. Hibbert, I show you what has been marked as Plaintiff's Exhibits 89 for identification and 90 for identification. I ask you if you recognize them?

A Yes, I do.

Q What are those? What is 89, first?

A 89 is the home study course certificate.

Q From Ryder?

A From Ryder.

Q What is 90?

A 90 is the certificate for completion of the course.

Q These were given to you by Ryder?

A Yes.

MR. DEVORKIN: I offer Plaintiff's Exhibits 89

and 90.

MR. KENNEDY: No objection.

THE COURT: Received.

xx (Plaintiff's Exhibits 89 and 90 received in evidence.)

Q When did you return to New York City from Oklahoma?

A I returned in June of 1974.

Q While you were out in Oklahoma how often were you up on the machinery?

A Well, they assigned three guys to a machine and I was on the machine approximately three hours each day.

Q For the entire four weeks?

A For the entire four weeks.

Q Did they give you any tests out there of any kind?

A Yes. Each day they give you a test for practical work and each week they give you a written test.

Q Did they give you a test at the end?

A Yes. They also give you a test at the end.

Q Did you pass those tests?

A Yes, I did.

Q When you returned to New York City did you seek employment as a heavy equipment operator?

A Yes, I did.

Q What did you do?

A First I went to the City Railroad Maintenance and I have known the guy, the big boss, for the operation there, and he offered me a job. At first he told me he had to get me a permit from the union before he could employ me.

Q Do you know if he tried to do that?

A I don't know what he did but after then I left and I went and seek another employment.

Q Did he ever give you a job there?

A No, he didn't.

Q Did he ever say anything to you further?

A Yes. I went back there and I told him that, you know, I've been down to the union hall and I tried to get in but I didn't pass the test.

Q After you went to this man did you go to anybody else to seek work as an operating engineer?

A Yes, I did.

Q Who was that?

A I first went to Fight Back and then they took me over to where they are building the subway, to see a man there by the name of Harry Schwartz, I think his name is.

Q What happened there?

A Well, he was trying to get me onto the machine there but he had us to go through the same procedure. He said he had to go through the union and he got to find out, you know, what happened to me down by the training school and all that.

Q After that did you ever go down to the union itself?

A Yes, I did went down to the union.

Q Which union was that?

A Local 15.

Q Of the operating engineers?

A Yes.

Q Who did you see when you went there?

A I see Dan Murphy.

Q What did you say to him and what did he say to you?

MR. KENNEDY: Can we fix a time?

THE COURT: Yes. Find out when it was.

Q Do you remember when that was, Mr. Hibbert, approximately?

A Let me see -- I don't know the exact date, but I think it was in July of '74.

Q Of this year?

A Yes.

Q What did you say to Mr. Murphy and what did he say to you.

A Well, I told him that I came down there to join up with the heavy equipment, I'd just finished school, and then he asked me who sent me down.

I told him I was sent down from Fight Back, they refer me down there, and then --

Q Keep your voice up, please.

A Yes, and I told him that I would like to take the tests, and he then said to me there are 48 guys out of work and I wouldn't be able to go on a job before them, if I still want to take a test. So I told him yes.

Q Did you show him any of your papers from Ryder?

A Yes, I did show him my papers.

Then he told me, well, let's wait and see if I pass the test. If I pass the test, then, you know, he will think about -- no. I told him I may be able to get a job with somebody else, you know, out there.

So then he said to me --

Q Did you tell him what kind of a job?

A Yes, I did tell him what kind of a job.

Q What kind of a job?

A The heavy equipment operator with the city railroad maintenance.

Q What kind of machinery?

A Well, the city railroad maintenance, after I got back from the school the guy told me, you know, he could put me on a front-end loader.

Q What did Mr. Murphy say to you, if anything,

after you told him you thought you would get a job on your own?

A Well, he told me I'm not allowed to do that; I can only get a job through the union. I can't go out before the 48 mans that are out of work.

Q Did he say anything else?

A Yes. So he said let's see if I pass the test first and then they can decide on that.

So he took me around to the side and he -- where they got a map there, and he showed me where to go for the test and he write me a piece of note and he give it to me and he told me I was to go out for the test on a Saturday.

Q Did you go out there?

A Yes, I did went out there.

Q Where was that?

A This was in Lefferts Boulevard and some other street out there.

Q What happened when you went out there?

A When I went out there I saw one of the instructors. One of the instructors came up to me and asked me if he could help me, and I told him yes. And I told him I was sent down by Dan Murphy, and I showed him the piece of paper.

He took me in the office,and there was another instructor inside there, and he asked the instructor if he could take me out there, you know, and give me the test.

So the instructor said okay and he took me out in the field and he put me with another instructor. Then this other instructor, he gave me the test.

Q Were you with any other men taking the test at that time or were you alone?

A Well, at first I was alone and just as I was about to go up on the machine, he told us to come down, there was another man that was coming out on the field, and they sent him up on the machine.

Q He was taking the test with you?

A Yes. That was a backhoe.

Q Now, when you came out to a piece of machinery, the first piece of machinery was what?

A That was a backhoe.

Q What did the man ask you to do, if anything?

A Well, he told me I was to get on the backhoe. So as I was about to get up there, there was this other guy coming, another man. He told me I was to come back down and let him go.

So the other guy went up and stayed for a couple

of minutes, and then he took us from there and --

Q Well, did the instructor say anything to the other man in terms of what he was supposed to do on the backhoe?

A No, he didn't. There was a trench-digging there and he told him he was to go up there and run the backhoe.

Q How long did that man actually run the backhoe?

A Say about five minutes.

Q Was he given any time limit to perform any kind of job?

A No, there was no time limit.

Q Were you put up on the backhoe?

A No, I wasn't.

Q Did you go to any other machinery?

A Yes. I went to the bulldozer, that's the first one I went up on.

Q What happened there?

A When I went on the dozer I asked him what should I do, you know, and he told me, "Just do anything," you know, whatever I feel like doing. So then I started trying to make a grade, you know, level out the place. Within two minutes he told me I was to get down.

Then he sent the other guy up,and when he went up he did the same thing also. Within about two minutes he told him he was to come down, so they transfer us to the front-end loaders.

Q Were you given any time limit on the dozer to do anything, any particular job?

A No, no time li it.

Q Did you go to any other machinery?

A Yes. We went on the front-end loaders and he told us, you know, "Either one of you guys get on the machine."

So I went up feirst and they got this big stock-pile there. Didn't tell us what to do. Just sitting around watching us. So I get in the stockpile and I picked up some dirt and then I pulled back the machine and was about to dump it on the same stock pile, and then he told me to stop and get down.

Q How long were you actually on the machine?

A It was about two or three minutes.

Q Did he give you any time limit to perform any particular job?

A No, no time limit.

Q What happened after that?

A Well, the other guy he went up and he did the

same thing.

So they transferred us to another end loader, the Caterpillar end loader, and the other guy he went up first this time. And then when he tried to move the Caterpillar it was like one of the wheels was locked, got a wheel lock on one of the trucks.

So the guy tell him he was to come down and I went up and I tried it and the same thing happened. So he told us we was to come down. So they say we all follow him back to the office.

We went back to the office and I guess he told the guy we failed the test.

Q What happened after that was said?

A Well, Mr. Dan Murphy told me that that was it, I wasn't good enough on the machine.

So he said, he said to me that I should go on the waiting list for -- to enter into the school.

So I told him -- I asked him how long was that going to take, you know, if it was only going to take a short time.

So he told me it's going to take from one to two years, and he asked me if I still wanted to go on the list, so I told him yes, I had no choice.

Q What did he say or do, if anything?

A So he told me okay, he'll put me on the list, and I think that was it.

Q Did you ever go back to the school or to the union?

A Yes, I went back there a second time.

Q When was that?

A This was about in August, '74.

MR. BRADY: Could we know where he went back, your Honor? The question was the school or the union.

Q Where did you go back, Mr. Hibbert?

A I went back to the union and I also went back to the school.

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Q Did you ever get into the school?

A No. I asked them if I could get a second test, and he told me, you know, yes, I could. So he asked me who sent me down the first time, so I told him --

Q Who was the "him" who you were talking to?

A Dan Murphy. So I told him that I was sent by Fight Back and I was from the Ryder School.

So then he said yes,he remember me.

Q Had you gone back to Fight Back after the first time at the school?

A Yes, I went back.

Q What happened there, if anything?

A Well, I let them know what happened and then they called up the union to find out --

Q How do you know they called the union?

A I was there in person.

Q When the man made the phone call?

A Yes.

Q Do you know what the man said on the phone when you were sitting there?

A At that time when I went down for the first test I wasn't quite sure it was the same --

Q The question is when the man from Fight Back made the phone call to the union, what did the man from

Fight Back say, if you remember?

A He said he would like to speak to Mr. Dan Murphy and he would like to find out if he was the one who gave me the test.

So I don't know what Mr. Murphy said to him. Then he told me that I didn't pass the test and implied he wouldn't be able to get a full day's work out of me.

Q Did the man from Fight Back send you anywhere to try to look for work again as an operating engineer?

A Yes. I went back to Harry Schwartz.

Q After the tunnel?

A Yes, after the tunnel.

Q What happened there?

A Well, Harry Schwartz went through the same procedure, that is what he told us. He would take my name and address and everything and then he said he is going to call the union and find out, you know, what happened and if he couldn't employ me. So when we went back the next day --

Q Back where?

A To Harry Schwartz. He told us that the union told them that he couldn't get a full day's work out of me and that was the same thing.

Q Did Mr. Schwartz say anything else to you?

A Yes. He said even if I pass the test --

Q What did he say again?

A He said even if I pass the test he know what they would be told by the union, told me that the books are closed, try to find some sort of excuse to make, you know.

Q Did you get a job with Harry Schwartz?

A No, I didn't.

Q You said you went to the school a second time?

A Yes, I did.

Q After you spoke to Mr. Harry Schwartz again or before?

A It was after.

Q What happened at the school the second time?

A The second time I went out there I saw Dan Murphy again and I was a little late. I had to wait a little while.

Then when the instructor, the instructor was out. When he came out he sent me to the same instructor and I took the test over.

Q Was the test the same as the first time or different?

A It was a little different.

Q In what way was it different?

A Well, Dan Murphy, after he came out in the field --

Q Keep your voice up.

A Dan Murphy came out in the field and he looked at me operating the machine. They sent me on a backhoe and he told the guy he was to give me about 15 minutes.

So I operated the backhoe and then he told me, Dan Murphy came over to me and told me that I wasn't good enough on the backhoe and I needed more training.

Then he took me over to another machine and left me with the instructor and he went away.

The instructor sent me up on the dozer and told me to make a grade, make it level. So I went up on the dozer and I tried to make a grade but before I was through making it, he told me to stop and come down, so I come down.

Then he sent me on a front-end loader and he asked me to load a truck.

Q Did he give you any time limit to load the truck?

A No, he didn't. Only at the first, the backhoe, they gave me 15 minutes.

So I loaded the truck and after I finished loading the truck, he told me to stop. So I came down and I get down off the machine and he told me to go into the office and told Dan I needed more schooling.

Q Did Mr. Murphy put you in the school?

A No, he didn't.

MR. DEVORKIN: I have nothing further, your Honor.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Hibbert, if I understand your testimony, from the Ryder School you had a home study course for about a year, is that so?

A Yes. It took me approximately a year. They gave you up to two years to finish that course.

Q What did they do, mail the materials to your home?

A Yes.

Q And was it all written?

A Yes, all written.

Q You had to study and answer some questions, was that it?

A Yes.

Q And mail it back?

A Yes.

Q Did they grade these papers?

A Yes.

Q Did you get successful grades on all your tests?

A Yes, I did.

Q Then there came a time when you had the practical part of the schooling?

A Yes.

Q Was that in Oklahoma?

A Yes, Ardmore, Oklahoma.

Q Where had you applied for the school, here in New York?

A Right.

Q And they sent you to Oklahoma?

A Yes.

Q Did you have to pay your fare out there?

A Yes,I did.

Q When you were out there did you pay for your room and board out there, too?

A Yes.

Q When you were out there, you were out about four weeks?

A Yes, four weeks.

Q And on machines about, you said, approximately three hours a day for four weeks?

A Yes.

Q Was that the sum and total practical experience you had in that school?

A Yes.

Q In those three hours a day for four weeks, how many different machines did you get an opportunity to work on?

A Well, I work on three different pieces of machinery.

Q A backhoe?

A Yes.

Q How long did you get on the backhoe total, about?

A Toral time on the backhoe wasn't much.

Q Approximately.

A Like about four hours.

Q Had you ever been on a backhoe before that time?

A No,never.

Q What did you do on the backhoe for these four hours?

A I dig trenches.

Q Did you have any time limit?

A No, there was no definite time.

Q In other words, they showed you how to extend the boom and pull it back and so forth to dig a trench?

A Yes, how to dig the trench.

Q How to swing the cab?

A Right.

Q What kind of backhoe was that, do you recall?

A One was the Case and the other was a power shovel.

Q Is that a small backhoe?

A One was a small backhoe and one big.

Q How much time on the big backhoe did you have?

A Divide them both ways, both two hours.

Q Two hours on each?

A Yes.

Q The rest of the time you worked on a dozer?

A Yes, dozer and front-end loader and scraper.

Q And the scraper?

A Yes.

Q How many hours did you have on the front-end loader out of these four weeks?

A I am not pretty sure of the time, but they break it up in like three ways.

Q Approximately how much time on the front-end loader, to the best of your estimation?

A I would say about eight, ten hours.

Q Did you load a truck with that front-end loader?

A No, they didn't do any truck-loading.

Q What did you do with the front-end loader?

A Excavating, taking from a stockpile, dumping.

Q After you had done 10 hours on that front-end loader did you feel you were able to go out in the con-

struction industry in New York City and work for an employer operating a front-end loader?

A Yes, I think I did. The instructor told me from the first time I was up on the machine that I was doing good.

Q That is the instructor from Ryder?

A Yes, form Ryder.

Q How many st dents were there going through the training with you?

A In my class there was about eight students.

Q Tell me, Mr. Hibbert, did any of those students fail?

A Yes, one student failed and he left.

Q Did he fail the test or drop out?

A He failed the test.

Q At the end of the school?

A No, first starting, the first week.

Q The first week?

A Yes.

Q What test did he fail,if you know?

A I think the scraper test.

Q Now, that first week, had you been on a scraper before?

A The first week I wasn't on a scraper. For the first week I was on a dozer.

Q Were you tested on the scraper too, Mr. Hibbert?

A Yes, I did.

Q How long after you had operated the scraper were you tested on it?

A Well, they test you every day.

Q So the first day you were on it for an hour or so they gave you a test?

A Yes, they also give you a test.

Q This is the test this man failed?

A No, he failed the test at the end of the week.

Q He was the only one that failed?

A Yes.

Q Do you know if he got his money back?

A No, I don't know that.

Q I didn't clearly understand the nature of the job you sought when you came back to New York.

Did you say Railroad Maintenance?

A Yes, Railroad Maintenance.

Q And what company did you seek that job with?

A Well, that's the company, Railroad Maintenance.

Q Was that to be employed by the Transit Authority or the Metropolitan Transportation Authority?

A No. This -- I think he is with the city, I

don't know. I know the big boss for the company, and I knew him before I started going to the school.

Q Is that the person you saw and tried to get the job from?

A Yes, that's the person I saw.

Q Would that job be like working for the Penn Central Railroad or something like that?

A I don't know what they do, for which company, you know, which comp any -- I don't know.

Q But that isn't a construction firm, is it, Mr. Hibbert?

A Yes, they do construction.

Q Construction?

A Yes.

Q Do they do their own construction for the railroad?

A Yes, I chink that's what they do.

Q Now, he said you had to have a union book, is that so?

A Yes.

Q Did he say what union?

A Not specially, he didn't specially say what union.

Q He didn't say the operating engineers, did

he?

A Not definitely, but he told me everything, everything in this field is union, and that the local -- Dan Murphy also knew him.

Q Beg your pardon?

A I say Dan Murphy also knew him and I told him.

Q What was his name?

A His name is Larry Class.

Q Can you spell his last name?

A I am not sure if I spell it correctly but I think it is C-l-a-s-s.

Q When you went to see Mr. Harry Schwartz you were with someone from Fight Back?

A Yes, I was.

Q Who was the person from Fight Back you were with?

A Mr. Henry Banks, sitting there.

Q Mr. who?

A Henry Banks. I am not sure if that is correct, if the name is correct.

Q And Mr.Schwartz, did you know who he was?

A No, I didn't know him.

Q Was he employed by the contractor at that

site?

A I think he was. I am not sure.

Q And what was the name of the contractor?

A I can't remember the name right now. I think I gave it to the attorney.

Q But was a subcontractor?

A Yes.

Q Where was that job?

A It was on West 12th Street -- 112th Street.

Q And you say that was a subway job?

A Yes, on Second Avenue, 112th Street and Second Avenue.

Q You asked Mr. Schwartz for a job?

A Yes, I did.

Q And precisely what did he tell you?

A Well, Mr. Banks talked to him while I was there, and then I can't remember the words, word for word, right now, but I think he told me that he had to have us to go through the union, you know, go to the union.

Q Did he ask you if you had any experience?

A Yes, he did.

Q Did he ask you if you had any working experience?

A Yes, I think he did.

Q Did he make any response or comment to you when you told him that your only experience was this Ryder school?

A Yes. Well, at the end he told me that he thought I am not experienced enough, you know, for going out there working on the street with the machine.

Q Mr. Schwartz told you?

A Yes, that is.

Q When you went down to the union and saw Mr. Murphy and got the test at the school do you remember the name of the instructor who gave that test?

A No. I just only heard them call him John.

Q John?

A Yes.

Q Is he white or black?

A He is a black.

Q Did you tell him, before you got on the backhoe, that you had only had two or three hours on the backhoe?

A No, I didn't tell him.

Q Was the backhoe that they asked you to operate the same as or different from the machines you

operated in Oklahoma?

A It was a little different.

Q Did you feel that you were able to operate that backhoe?

A Yes.

THE COURT: How did you hear about this Ryder School?

A I saw it in the papers.

Q You went back to Mr. Schwartz a second time at the tunnel job?

A Yes, I did.

Q And you said he took your name and address?

A Yes, he did.

Q Did he take your phone number?

A Yes.

Q Did he say that he would call you?

A No, he didn't told me he would call me.

Q Has he ever called you?

A No, he did not.

Q Or has he ever written to you?

A No. We went back there that following day.

Q When you went down to the union, you testified that you told Mr. Murphy you had a job?

A Yes. I told him I could get a job.

Q What job were you referring to?

A That's the city Railroad Maintenance.

Q When was the second test given to you, Mr. Hibbert?

A I think it's in August of '74.

Q Just two months ago?

A Yes.

Q And did you have any trouble taking that test? By that I mean did the union interfere with your opportunity to take that test?

A No, not really.

Q And this test was even longer than the first one, was it not?

A Yes, I would say a little.

Q And you had the same black instructor with you, isn't that so?

A Well, the first one went out was white and the -- was one the first backhoe, and then Mr. Murphy took me down to a black instructor.

Q And then he is the one that graded you on the dozer work and the front-end loader work?

A Front-end loaders, right.

Q Then Mr. Murphy took your name for the

waiting list for the school?

A Yes, right.

MR. BRADY: No further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. DEVORKIN: Your Honor, could I ask for a five-minute recess? A witness just came in.

THE COURT: Yes, we will take a short recess.

(Recess.)

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MR. GLASSMAN: The government calls James Haughton.

J A M E S H A U G H T O N, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Haughton, by whom are you employed?

A I work as the director of Fight Back and I am also working for Hunter College as an assistant professor.

Q What is the address of Fight Back?

A 1 East 125th Street.

Q How long have you been with Fight Back?

A Actually since 1964. It was then called the Harlem Unemployment Center and the name was changed in 1968 to Fight Back.

Q Can you briefly describe for us the work of Fight Back in relation to the building trades in New York?

A It is an effort to involve the black and Puerto Rican worker in an effort to organize themselves to fight to apply pressure to the industry to obtain jobs and to eradicate racism from the industry.

Q Could you briefly describe for us the methods which Fight Back uses to achieve these objectives?

A Every morning the unemployed workers, most of whom are black and Puerto Rican, go on a shape. They shape construction sites seeking work. That is the principal way through which they obtain jobs. The other way is meeting with contractors, attempting to talk to them when we find that on particular job sites their representation is very, very low or there are no non-whites on the job at all and frequently that is very helpful as a way of getting non-whites on the construction site.

There have been occasions, a few occasions, where we have actually contacted some unions and on a few occasions that has proved an effective way of getting the black worker a job.

When we find there are no avenues open because the contractor refuses to change the racial balance on a particular site and unions do not wish to respond and the job is just about all white or a token number of whites, then we usually picket the job. Usually that pressure forces the contractor to change the racial composition by way of putting on more non-whites.

We have continuously met with people at City Hall, in the Mayor's office, the Office of Contract Compliance as an additional way of applying pressure on the industry to get the non-white worker in jobs in the

building trades.

We have also been involved in other court cases, namely, with Local 46 of the Wire Metallic Lathers, Local 638 of the Steamfitters.

Q Have you had operating engineers, minority operating engineers come to you seeking work?

A Yes, we have.

Q If such a man comes to you and says he can operate equipment, what do you tell him?

A Most often I tell him to go down to the local and to apply for membership and a job.

Q How do you determine whether a man is qualified to operate equipment?

A They usually bring in papers indicating they have so many years of actual work experience or in many cases, especially with younger workers, they come in with a certificate stating they have completed a school where they train operating engineers.

Q As a rule a man who claims to be able to operate heavy equipment, are they young men with a little bit of experience?

A Most of them have been relatively young but there have been some elderly operators.

Q What range of experience in term of operating

engineers have come to you?

A I can recall all the way from one man having about 20 years' experience to a young man just graduating from school.

Q When you say you have sent such people to the union, to what union do you send them?

A Local 15, and I think occasions where they have gone down to Local 14.

Q Have you ever had men tested out before sending them to a job with the union?

A In a few cases.

Q How would you do that?

A With a contractor who is more or less sympathetic to the idea of involving non-whites as operating engineers. I would request that we test him out, whether this particular person had the experience to operate the machinery he claims he can operate and that has happened on several occasions.

Q Have you actually contacted or attempted to contact Local 14 or 15?

A Yes. I can recall over the years, it goes back some time, where I have written letters to, I believe, Local 15, stating that we had a particular person who was interested in joining the union and getting a job. I think we have done that on several occasions.

Q Do you know about how long ago you may have started to contact the union?

A That goes back many years. At least the last time I did that was, it must have been about three or four years ago.

Q Have you called or written the union?

A I have also called the union.

Q When you have written the union do you know to whom you have written?

A I think it was a Murphy, Mr. Murphy.

Q When you called the union, who have you asked for?

A Mr. Murphy or a business agent, and I have never been able to talk directly to anyone down at the local.

Everytime I call the person I am seeking to talk or the person responsible for interviewing a worker to see whether or not he could qualify as a mechanic, I have never been able to get directly in touch with that person.

Q Have you received any response to your letters?

A I never received a response.

Q Have operating engineers who you have referred to Local 14 or 15 reported back to you on work they received?

A Yes, they have.

Q And what have they told you?

A They said that the union said they were not taking in any men and work was slow.

MR. BRADY: Can we have an identification of the people?

THE COURT: Can you identify any of these people?

THE WITNESS: Hibbert was one. Someone by the name of Eteimo, another operating engineer. I just can't recall their names.

Q During what period of time have you actually sent people down there?

A This goes back over the past ten years. I haven't done it recently.

Q Will you tell us why you haven't done so recently?

A Well, it always seemed to be an act of futility.

Q Has Local 14 or 15 ever suggested that you refer men to its training school?

A Never.

Q During your years with Fight Back have you visited job sites where construction was going on?

A Quite a number.

Q Have you had occasion to observe operating engineers working on the job?

A Yes, I have.

Q On many job sites?

A Very many.

Q Can you name some of the job sites?

A The World Trade Center, Pollution Control, 135th Street, many HDA jobs, UDCwork that has been developing around the City; Board of Education work, schools.

Q What is HDA?

A Housing and Development Administration.

Q Why have you gone to job sites?

A Shaping with men attempting to get work.

Q Have you observed men, operating engineers, who were black or Spanish-speaking?

A No, I have not.

Q Have you observed some of them?

A There have been occasions where I observed some.

Q And what kind of work have you observed blacks or Puerto Ricans operating as engineers?

A Usually on operating small machines, I noticed.

Q Have you ever actually contacted or obtained a job for a black or Puerto Rican as an operating engineer or get them reinstated on a job?

A Yes.

Q How have you done that?

A Through certain contractors.

Q How would you do that?

A Well, we would say to a contractor that we had a qualified -- I know one particular case which goes back maybe about three years ago where we had a young man, a veteran come back from Vietnam and said he was qualified as a top mechanic.

I had this contractor test him out, and the contractor was very impressed with his performance. As a result I think the contractor took him on and somehow even got him a union book.

Q Any contractors ever requested minorities from you?

A No.

Q Have there been any situations in which you were able to help a contractor get a number of minorities?

A We are always in a position to do that.

Q Any particular circumstances in which you have done that?

A Yes. When they have requested?

Q Yes.

A They never requested, made that request of us.

Q Have you ever worked with the City of New York to obtain minorities for particular contractors?

A Yes.

Q Can you explain those circumstances?

A Well, through the Mayor's Office of Contract Compliance we have constantly put forth the names of workmen who have various trades including operating engineers.

At meetings we had from time to time, we are calling on the City to use its persuasive power to open the field and union books for those men.

Q Are you familiar with the New York City disbarment proceedings?

A Yes.

Q Could you tell us briefly what that is?

A Well, if a contractor is held over a period of time not to comply with the executive order in force and he repeatedly violates the executive order, he is called in. I believe there is a hearing and at that meeting if he cannot demonstrate why he has not been able to integrate his work force, he is disbarred.

Q Have there been any such situations in which you have ended up supplying men to a contractor?

A Who has been disbarred?

Q Yes.

A One particular contractor I can recollect.

Q What contractor was that?

A Musito Contracting.

Q How would you go about supplying men to that

contractor?

A . Simply he wanted to be reinstated. In order for him to be reinstated he had to change his racial composition of workmen, and so we provided him with men, not simply operating engineers, but all of the various categories of workmen that he employs.

Q Do you think you supplied him with operating engineers as well?

A Yes, we did.

MR. GLASSMAN: I have no further questions of this witness.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Haughton, are you familiar with the City licensing requirements for certain heavy equipment?

A Somewhat.

Q Do you know what equipment requiresa license to operate?

A All heavy equipment, I understand.

Q Do you know what equipment Local 14 operates?

A I think the light equipment, the small equipment.

Q I am sorry?

A I believe the small equipment.

Q You are only familiar with the small equipment

local?

A It is my understanding Local 14 is concerned with operating small equipment, the lighter equipment. Not the big booms but the backhoes.

Q Have you ever referred anybody from Fight Back to Local 14?

A I am not sure. I may have. I am not sure.

Q For your information, Local 14 operates the cranes and the hoisting equipment in the City of New York.

A Yes.

Q Have you ever talked to any delegate of Local 14 concerning obtaining membership from 14 for a person that y ou sent them?

A No, I have not.

Q Have you had any discussions, Mr. Haughton, with the City of New York concerning the reduction of the requirements for licensed equipment?

A No, I have not.

Q Do you know of your own knowledge, Mr. Haughton, whether or not a contractor employing Local 14 operators has ever been held to be in noncompliance?

A Yes.

Q What jobs?

A I don't know the particular jobs but I know the particular contractor I mentioned was disbarred because he was not in compliance.

Q And you are saying that he employed Local 14

men?

A I believe so.

Q Do you know how many men he employed, sir?

A Over the years he has had considerable work. I would have no way of ascertaining how many men he actually had but I know over the years this particular contractor had a considerable amount of work.

Q Now, did your organization supply men for that particular job?

A We supplied men to the contractor and he would determine where they would work.

Q And that put them in compliance?

A Not really, but I should say that the compliance mechanism of the city has been lacking in effective enforcement but at least that put the contractor back in operation.

Q Do you know whether or not any of the men that you supplied to the contractor had licenses to operate heavy equipment?

A I think there was one that I can recollect, one who this man claimed to have had 20 years' experience, and I believe he did show me a license. One.

Q Did you refer that man to Local 14 for membership, sir?

A I think he had already been down to Local 14 before I --

Q What was his name, sir?

A Again I can't recollect his name. It's about five or six years ago.

Q Six years ago?

A Five or six years ago, sir.

Q Well, if you could get me his name at any time I certainly would appreciate it, Mr. Haughton.

A I may be able to get his name.

MR. KENNEDY: Thank you, sir.

I have no further questions.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Haughton, is it your testimony that you have never been able to speak with a business agent from Local 15?

A That's correct.

Q How many itmes would you say over the number of years have you called down there?

A Many times.

Q Well, what's "many"?

A Fifteen, 20, something in that order.

Q And you never spoke to any business agent?

A I would speak to a secretary or somebody and --

Q Did you ever speak to Mr. Daniel Murphy?

A I don't believe I ever talked to Mr. Murphy.

Q At any rate, you haven't called in three or four years?

A Maybe more recently than that. Maybe three or two years.

Q Well, when Mr. Hibbert came to you, that was this year, wasn't it?

A Right.

Q Did you call Danny Murphy then or anybody else?

A No. I simply sent Mr. Hibbert down to the local.

Q And he wasn't refused admission to the hall, was he? They talked to him, didn't they?

A Oh, he went to the hall and they talked to him, yes.

Q Did Mr. Hibbert tell you about the test he took?

A Yes, he did.

Q And did he tell you he was going down for another test?

A I don't recollect him telling me that.

Q Did you request of the union that you be present when Mr. Hibbert was tested?

A It never occurred to me to do that.

Q Did you test Mr. Hibbert yourself?

A I am not qualified to determine whether Mr. Hibbert is a mechanic or not.

Q Did anyone from Fight Back test Mr. Hibbert?

A Not to my knowledge.

Q Did Mr. Hibbert pay you a fee for your services?

A No, he did not.

Q Is there any other name of any person, any worker that you can recall, that you sent down to Local 15 in the past 10 or 15 years?

A I was searching my files the other day and, you know, we moved and a lot of the papers were either lost or destroyed, but I can remember -- I remember one person in particular who -- and this was again on a Muratore site -- who was working as a laborer because he couldn't get in as an operating engineer.

Q What is his name?

A Now, I can find that name too. I can get that.

Q I wish you would supply it.

A I can get that name.

Q He was seeking work out of what local union?

A I am not sure whether it was Local 15 or 14. I am not sure.

Q Tell me, do the people that you attempt to help pay dues to you?

A Sometimes they do; most often they don't.

Q Do they pay dues whether they are working or not?

A No, they don't.

Q Do you happen to know a person named Moses Harris?

A I know Moses quite well.

Q He is part of your organization, isn't he?

A He was. Moses first came to us about seven years ago. He was an ironworker and we were successful in getting him into Local 40.

He was active during that period of time as a member. Most recently he has formed his own organization that's called Black Economic Survival.

Q Do you know whether or not Mr. Harris was a member of Local 15?

A I believe he was, and that was related to a job that he obtained at the North River Polution Control

Project.

Q And he was admitted into Local 15, wasn't he?

A And he was admitted.

Q Without any problem, isn't that so?

A To my knowledge, there was no problem.

MR. BRADY: Thank you very much.

No further questions.

REDIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Haughton, do you personally know how Mr. Harris actually got into Local 15?

A No, I don't, but I know that Mr. Harris is a very militant and persuasive fighter and would create quite a bit of problems if he were denied admission into the local.

MR. BRADY: I will move to strike that.

THE COURT: Yes, we will strike it.

He said he doesn't know personally.

Q Mr. Haughton, have you ever actually visited some of the sites operated by Muratore?

A Yes.

Q What kind of equipment have you observed at those sites?

A He has varied equipment.

Q Could you describe it? Did you see any cranes?

A I've seen cranes, yes.

Q Any other kind of heavy equipment that you can remember?

A Equipment that pushes the dirt. It shovels

MR. GLASSMAN: No further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. GLASSMAN: The government calls Gilbert Banks.

G I L B E R T B A N K S, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GLASSMAN:

Q Mr. Banks, for the record, would you state your race, please?

A My race?

Q For the record.

A I am black.

Q Mr. Banks, how are you employed?

A Now I amworking as an organizer for Fight

Back. I am not -- I get expenses and that's it.

Q Have you ever been --

A I am not salaried now.

Q Have you ever been a member of an operating engineers local in the City of New York?

A I have been a member of operating engineers. I have been a member of 15D.

Q What kind of work does 15D do?

A Well, 15D covers the surveying part of the industry: The chief of party, transit men and rod men.

Q How did you receive your initial training for surveying?

A Well, I went to the Brooklyn Community College and I took the construction technology course there, and in the construction technology course they had a surveying course, and that was where I received the basic background to work in the industry as a surveyor.

Q When did you go to Brooklyn Community College?

A Oh, about 1960.

Q About how long did you stay there?

A I was there about three years.

Q After going to Brooklyn Community College how did you try to find a job?

A Well, after I took the surveying course and knew enough about the instrument and enough about control, I got on a bus and I used to ride from downtown uptown and I would write down the sites that I passed where they were in various stages of construction.

In either getting uptown or downtown I would get off the bus and I would go back to the sites which I had passed, and then I would ask the contractor and get to the GC or the supervisor on the job to ask him whether or not there was any possibilities of me getting a job in the industry as a transit man or a rod man, whatever it took to get started in the industry.

Q And what were you told?

A And without -- every time I went to the job, the job would tell me, he would say, well, we can give you a job but you have got to get a book. And then in that same time I went down to the union and the union said I had to get a job.

So I just couldn't, you know, get things to happen.

Q You had to get a job before you could get a book?

A That's right.

Q What union did you go to?

A I went to 15D.

Q Didthey then give you a job?

A No, they didn't give me a job right away. It was about -- oh, about maybe six months or so, the lag period, and the Brooklyn Downstate Medical Center had a demonstration where that they stopped the job because the Brooklyn C ORE was pretty active in that, and we had sent down there on a shape and we had shaped for about a week, and we began to see men who were shaping --

Q What kind of a demonstration was that?

A Oh, they stopped the job. It was a major demonstration, several thousand people arrested.

Q For what reason were they demonstrating?

A They were attempting to break down the racism within the construction industry to sort of make it equitable for black guys who went to shape would get jobs rather than be turned away.

Q Can you tell us how you ultimately got jobs?

A After that I was called up by the 15D and I think it was Tommy Maguire who said that it would be possible for me to work if I could have any influence in stopping the demonstration.

My position then was that I am not in policy-making, I don't say where to demonstrate, what to do,

and that I couldn't do that, and so thereafter, shortly after, I got a book and I went to work as a rod man.

Q What does a rod man do?

A Well, the rod man, you hold the ruler on a bench and the instrument guy reads the ruler; that's all. He tells you where he wants you to stand to take elevations.

Q Where did you actually work on that job?

A Well, the first job I worked for with the book was at Lincoln Center.

Q Do you remember the name of the contractor?

A Yes. The contractor was Turner Construction.

Q In working as a rod man have you ever talked to other rod men on the job?

A Well, certainly. There were three parties on the job when I was there and the job was just beginning to peak out, it was finished. And that's where I got some experiencie in using the gun, you know. In school you don't get too much experience in terms of using the gun but during my lunch hours and stuff I would learn, you know, become familiar with the gun.

Q When you say the "gun," what does that mean?

A With the transit.

Q Do you know if all the rod men you had worked with had gone to school like you?

A I didn't meet anybody out there that went to school to be a rod man.

Q What type of jobs did you get after your first job?

A Well, I had about two jobs and they were short-term jobs, and what I used to do, because if I wasn't working,I would get involved in civil rights. You know, I would work six months or three months, and then I wouldn't have any more money and I would spend the money that I saved during the time I was working and I would get involved again.

Q When you say short jobs, what are you talking about?

A Well, three months, four months, something to that effect -- five months.

Q Mr. Banks, did you ever get a relatively permanent job?

A We were talking with the personnel manager of Crimmins --

Q When you say "we" who do you mean?

A Well, I think it was Fight Back -- it was then the Harlem Unemployment Center -- and Broderick was

his name, and we were talking during another meeting, and he had known that I worked for them as an instrument man -- no, as a rod man at that point -- and we talked and said that, well, you know, I think from our organization they said that, they indicated that possibly we could go to one of their jobs. And at that point I didn't know whether it was going to be a short-time or a long-term job but this job turned out to be a long-term job. I was on the job four years, I think.

Q So you got this job after meetings with whom?

A With Tom Broderick of Turner, and Fight Back or the Harlem Unemployment Center.

Q After this long, four-year job what did you do?

A Well, at that point I resigned from the job and I went to East Africa, Tanzania.

Q When did you return from Africa?

A I returned from Africa in November of last year.

Q Is that 1973?

A Yes.

Q Did you go to the union when you returned?

A I didn't go to the union right away. I

went to work in a supervisory position with Muratore Construction, and after that I went to work for Horn Construction and the same sort of a position.

Q What kind of work did you do for Muratore and Horn?

A I worked as an assistant super in excavation for Muratore, and I worked temporarily as a super of excavation in Horn Construction.

Q Did you ever then go back to the union?

A This year, after my work, my job was terminated by this Horn, somewhere around in June or July, I called up the union and I asked them what would I have to do to get back into the union.

Q What union did you call?

A I called 15D.

Q What did they tell you?

A They said that I hadn't paid any -- hadn't kept my book in force so that in order for me to get back into the union, that I would have to pay five years' dues, that was $675 at that time.

Q Did you pay that?

A No, I didn't pay that.

Q Did you ask for work at that time?

A At the time that I asked about getting back

into the union they said, well, work was kind of slow. But I would just like to make a remark about work being slow.

MR. BRADY: Your Honor, I will move to strike. It's not responsive.

THE COURT: Well, you can ask a question and if he can answer it, a'l right, but he can't volunteer.

Q When you say work was slow what do you mean?

A Well, it's been slow all of my life in the construction because every time you go to the site you see white guys working and you don't see black guys working, especially in the surveying; you see some.

But the other thing is that when I was in Community College I had about three classes per night and about five blacks who were in class with me, so that's a total of about 15 blacks per night, and in the past, well, say, 10 years I have yet to see one of those black students on the job. I have seen white students on the job but I haven't --

Q Have you seen white students on the job who were in the classes with you?

A Yes. I haven't seen any black students.

Q Are you now working for Fight Back?

A I am working as a volunteer on a voluntary basis.

Q What kind of work are you doing?

A I am doing organizing.

Q What do you do as an organizer?

A I go to the site, and as I walk on the job I look to see the ethnic or the racial composition of the job and, based upon what I see, I then approach the contractor, the GC, to get some information as to the minority ration of blacks and Puerto Ricans on the job.

Q Have you had occasion to observe jobs with operating engineers working there?

A I have observed many jobs where the operating engineers are on the job.

Q Can you give us an example, name the jobs you have been to?

A There was one job that I just visited recently, and that was at the Oakwood Beach pollution plant.

On that job there are --

MR. KENNEDY: May we have a location for the particular job site?

Q Where is that job site?

A Staten Island.

Q What did you observe on the job?

A On that job I think in looking at the minority report, I think they had something like 15 men on the job who were functioning as 15, Local 15, and about at least two of those men were rolling logs, but they were 15 men.

Q Black men or whit men?

A They were blacks.

On the well point gang there were about three or four blacks who were on the well point gang, and if I can remember, out of about maybe at least 10 pieces of equipment on the job there, there was only, if I recollect properly, I think I saw one black on a pile-driver, but as to the operating of the machines there, out of about maybe 20 or 30 machines, I think I saw one black, and that was on a piledriver.

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Q Have you observed other job sites with operating engineers working?

A I went to the North River Pollution plant or project and that was Perini who was the GC.

Q What did you observe there?

A I didn't get close to it. All the cherry-pickers, all the front-end loaders I saw were all white. I had talked with Ed Hennessey --

Q Who is he?

A He is the personnel manager of the North River project.

Q What did you say to him and what did he say to you?

A I was trying to find out on all those rigs that I saw there, the Local 14, the number of blacks that they had actually operating those machines.

I can't recollect whether I saw one or two, but that was it, out of about -- I didn't count the machines.

Q One or two men actually operating machinery?

A That is right, the 14 men operating the cranes, piledrivers and cranes.

Q Is that job a big job?

A Yes, it is one of the major polution plants in this area.

Q When did you visit these jobs?

A I visited this job on several occasions around the spring, May, June, somewhere in that area.

Q In 1974?

A In 1974, yes.

Q For the record, Mr. Banks, how old are you?

A I am 48.

MR. GLASSMAN: I have no further questions of this witness.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Banks,at the pollution plant in Staten Island how many pieces of equipment were operated by Local 14 people, if you know?

A I can't tell you exactly how many, but I know of this, maybe about seven or eight cranes on the job there.

Q How many piledrivers, sir?

A Three piledrivers or four.

Q What would be about ten or eleven men, is that correct?

A That is fourteen men?

Q No, I say --

A You asked about cranes and I ask you is that fourteen?

Q Yes, sir.

A I saw one black guy on the piledriver at those machines, if those machines were 14. On the machines with 15 --

Q I am not interested in 15, Mr. Banks. I thought you mentioned there were two black engineers doing work on the piledrivers,is that correct?

A I would like to make a clarification here.

Q Yes, sir.

A It has been my observation that the local will put black men doing various maintenance jobs on the machines or on the job but in terms of operation, they don't have any or very, very few. The vast majority of the men were in maintenance. They guy never gets a chance to operate the machine.

Q Was a black man operating a piledriver, sir?

A There was one black guy operating the pile-driver. There was another black guy operating the crane itself, the operator, and the guy operating the piledriver itself.

Q Those were the two blacks?

A Two blacks that I saw.

Q Out of ten or eleven men who were operating 14 equipment, isn't that correct?

A That is right.

MR. KENNEDY: Thank you, no further questions.

BY MR. BRADY:

Q Mr. Banks, do you know the rate of pay for maintenance engineers?

A I don't know the exact amount but my assumption is that it is comparable or close to the operator.

Q Do you know who works more steadily, the maintenance engineer or the operator?

A Well, I would like to tell you that --

Q Do you know?

A Yes, I know. If you are putting in well points and you call that maintenance at the well point, he comes in and out and the other guys are still on the job.

Q Will you try to answer the question?

A I answered it.

Q Do you know who works more steadily, the maintenance man or he operator?

A Well, I would like to clarify that by saying white or black ones?

Q That is not the question, sir.

A That is what appears to me when I inspect a job, that I say, I am telling you that.

Q Will you try to answer my question for the third

time?

MR. GLASSMAN: I believe the witness answered the question. That is what his observations were.

THE COURT: That wasn't the question. Read back the question.

(Question read.)

A I don't know.

Q Thank you.

A On the basis of color I don't know.

Q You said that you went three years to Brooklyn College?

A Brooklyn Community College.

Q Then you looked for work by riding buses?

A That is true.

Q When you went to those contractors did they tell you that they had a job there available for you if you could get a book?

A That is what they said.

Q Which contractors told you that?

A I just can't remember. This is now 1974 and this was in the sixties, 1961, 1962, 1960.

Q When you went down to the union and they told you you could get a book if youhad a job, did you tell them you had that job?

A I told them that if they gave me a book that I could get a job. They told me to get the job first.

Q Did you name the job and tell them where it was?

A I don't know whether I named the job. I don't even think they asked me to name the job.

Q There was a time when you went to work for Turner, isn't that so?

A There was a time that I went to work for Turner.

Q What was your first job title on that?

A The first job was rod man.

Q Were you ever a trainee for Turner?

A As a rod man if you call a rod man a trainee. I didn't have that understanding. My understanding was that I was working as a rod man.

Q How did you get the job?

A Through Local 15.

Q At that time did you have a book?

A At that time I had got the book.

Q Are you saying that at no time you didn't work for Turner as a trainee in their training program?

A I don't know how you are asking the question. I know I went to work for Turner as a rod man and I know that later I went to work as an instrument man.

At the time I went to work as an instrument man

I had enough knowledge about it when I first went there. The only thing I didn't have was making use of the gun.

When I was with Turner for this period of four years or so, there were students, student engineers who came out of college and I was working as the transit man and would show the student engineers how to work in line and grade.

Q When did you work for Turner, for what four years were they?

A I left in 1969, so it must have been from 1965 to 1969.

Q Prior to that time had you worked for Turner at any earlier point?

A The first time I went to work for Turner was in the summer of 1963, I think, or 1962.

Q Is that the time you went out as a rod man?

A That is the time I went out as a rod man.

Q Do you have any recollection of any incident where Mr. Thomas McGuire prevailed upon Turner to have you covered under the union contract?

A When I first -- this was after the demonstrations and all that the first time I went there. Prior to that there was no prevailing. After the demonstrations, that was when I spoke to Tom McGuire and he had sent me to,

I think he told me to go to the job and some time later I met Tom Broderick through some meeting we had at the Harlem Employment Agency.

Q Isn't it a fact that Turner classified you as a trainee and said that you were not covered by the collective bargaining agreement?

A I can't recollect if -- if you have that information I can't deny it, but I can't recollect. I know I had the union book -- wait.

It is possible. I don't remember those details.

Q Isn't it a fact that it was through Mr. McGuire's insistence that you were put under the coverage of the collective bargaining agreement with Local 15-D?

A I guess so; I think so.

Q Because you were spending more time in the field than Turner claimed you were; do you recall that?

A I was spending more time in the field?

Q In the field than Turner claimed that you were.

A I don't remember that. I remember that when I worked for Turner that I worked as a rod man and when Turner felt that I could work as a transit man, they made me a transit man. Whether or not there were -- there were not outside source other than Ed Rochelle saying I could or couldn't, or the instrument man I

was working with.

Q Do you recall working for Humphries & Hardin in Westchester?

A I never worked for them. In Westchester? What year was that?

Q Are you positive you never worked for them?

A I am just positive of that. I would bet my life on it.

Q You talked about these men on cranes that you observed?

A Yes.

Q Were they operating or firing the cranes, the blacks?

A Where?

Q Where did you see them, the piledrivers?

A On the piledriver the guy that sits on the front part of the crane who operates the piledriver itself, pushing levers which moves it out from the base of the piledriver and lowers it on the head, that is the guy I saw. If you call him a firer, that is what he is.

Q You say you saw no other blacks on the job?

A I also saw -- what job?

Q The Staten Island plant.

A Okay. On this Staten Island job I said that

I saw a black crane operator operating the piledriver.

Q Did you see any men on equipment that were black?

A I saw some, another guy walking around a piece of equipment. I understand that he is an operator. I don't know what equipment.

Q Do you know if he was an operator or oiler?

A I don't know what it was because it is hearsay, I didn't go up and ask him. He was walking around it.

Q You don't know what union he belonged to, do you?

A No more than what the foreman on the job, the oiler guy, the 15-D foreman on the job was telling me. Whether he was an operator or what he is operating, I don't know.

Q Did you see any black oilers on that job?

A Now, we are coming into the point where that -- you asked about an oiler and if he is a 15 guy, so he is an oiler or maintenance or operator.

Q But this is the black man?

A Yes. The position which the foreman took on the job is he is a 15-D guy. I mean, the 15 guy, he is 15, whether he is an operator or oiler or maintenance, it doesn't make any difference.

Q How long a period of time did you work out of 15-D?

A About six years.

Q In that time did you attend union meetings?

A I have attended, I think, one or two meetings.

Q Have you ever seen any 15-D men who were black?

A I have seen 15-D members that are black.

Q Have you worked with 15-D men who were black?

A I never worked -- with one student as a rod man out of school that summer.

Q Do you know of any black men who are chief of party?

A I havent seen any.

Q Do you know of any black 15-D men who are transit men?

A I have recently since I have been back, I have seen some black -- a Puerto Rican brother as a transit man.

Q No blacks?

A I shaped one job in Brooklyn on Nostrand and DeKalb Avenue and there was a guy there but he was a super.

Q Was he a member of 15-D?

A I can't tell if the super was a member of 15-D.

Q While you were a member of 15-D did you ever have a job as a super or assistant super?

A After working for -- no, I didn't have the paid position as assistant super. I had the position as the transit man but usually when you work with Turner as transit man, the transit man gets a lot of responsibility in terms of supervision.

Q When you worked for Turner for the four years, that was four years straight?

A It was four -- yes, it was four years.

Q Was that under the jurisdiction of Local 15D?

A Yes.

Q And you were a transit man during that period?

A Right.

MR. BRADY: I have no further questions.

MR. GLASSMAN: No questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Why don't we take a short recess.

(Recess.)

MR. DEVORKIN: Your Honor, I have a stipulation I would like to read. This is a stipulation between plaintiff and defendant Local 14; it's a series of stipulations.

The first stipulation is that two of the current members of Local 14, 14B, are known to the union to be Spanish surnamed.

MR. KENNEDY: Your Honor, may I interrupt for a moment.

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By agreement, your Honor, and so it won't confuse the record, on paragraph 26 of the pretrial order it sets forth the number of minorities in Local 14 and 14B, and this is simply a further breakdown of that particular figure.

Am I correct, Mr. Devorkin?

MR. DEVORKIN: I have already read a stipulation in to the effect of that pretrial order. I am now breaking it down further and saying that two of the minors are Spanish surnamed.

THE COURT: Better wait until I find 26.

(Pause.)

THE COURT: What page of the pretrial order?

MR. KENNEDY: It's about five pages from the end, your Honor.

MR. DEVORKIN: Your Honor, it's in the record of the case at page 379 of the transcript. I read a stipulation into the record.

THE COURT: That's not a part of the pretrial order.

MR. DEVORKIN: No, sir. There is a section of the pretrial order which also speaks to the question and --

THE COURT: I haven't gotten beyond paragraph 11 of the pretrial order.

MR. DEVORKIN: The pretrial order paragraph was simply a proposed stipulation. The final stipulation between Mr. Kennedy and myself was read into the record at page 379 of the transcript.

I am now just saying that it would --

THE COURT: Well, now, wait a second. You are not talking about the pretrial order but attachment B to the pretrial order.

MR. KENNEDY: I'm sorry, your Honor.

THE COURT: And that says Local 14 currently has 1550 members, and so forth.

Let's go ahead.

MR. KENNEDY: This is a further addition to that.

THE COURT: As long as I know what we are adding to.

MR. DEVORKIN: I am saying that two of the minorities are Spanish surnamed.

The second stipulation is as follows.

The joint pension and welfare funds of the International Union of Operating Engineers of Locals 14, 14B, 15, 15A, 15C and 15D supplied plaintiff with exact

duplicates of their official computerized business records of employees' earnings for 1971, '72 and '73.

For each year the records supplied contain the following pertinent information for each individual who worked for any employer with whom either union had a collective bargaining agreement in that year:

1. The employee's Social Security number.

2. The employee's earnings during the year from contracting employers as reported to the funds by the employers.

These earnings include each employee's income attributable to overtime work but calculated at applicable straight-time pay scales only.

The next stipulation is as follows:

Local 14 supplied plaintiff with a current list of its members together with their addresses and Social Security numbers, and a list of those members known to the union to be black or Spanish surnamed.

The next stipulation is as follows:

Plaintiff then gave the aforementioned records to Mr. Steven Vanechanos. If called to testify by plaintiff, Mr. Steven Vanechanos would testify as follows:

1. He is employed by Hanover Business

Systems, Inc., New York City, as a senior computer consultant to do computer analysis and programing.

2. Under his supervision the Local 14 membership records supplied on index cards were transformed into a computer file in alphabetical order together with Social Security numbers and the appropriate names were coded with asterisks to in icate if the member were black or Spanish surnamed.

3. Under his supervision the joint pension and welfare records were then processed by computer to calculate the average annual eanings for the years 1971, '62 and '73 for each Social Security number.

4. Under his supervision the computer matched the Social Security numbers of the aforementioned average annual earnings list to the Social Security numbers on the Local 14 membership list. The end product of this match was a current alphabetical list of Local 14 members showing their name, address, Social Security number, average annual earnings from 1971 through 1973, and whether they are black or Spanish surnamed. This is Plaintiff's Exhibit 91 for identification.

5. The computer programs prepared by Mr. Vanechanos to perform these calculations and processing

were first checked with similar and known sample data to insure that the final calculations and lists would be accurately prepared and matched. The testing of the programs and processing with known sample data resulted in accurate calculations listing and matching and printing of the final product for the test data.

Plaintiff calls Rose Glatter.

THE COURT: Are you introducing this document?

MR. DEVORKIN: I have a copy. I was just reading that stipulation into the record, your Honor. I am not going to introduce it as an exhibit.

THE COURT: I don't want a copy of anything that is not an exhibit.

MR. DEVORKIN: I am simply reading it as a stipulation of fact between Mr. Kennedy on behalf of Local 14 and myself.

THE COURT: The court won't have a copy of the computations?

MR. DEVORKIN: Yes, you will.

THE COURT: Are you going to offer it as an exhibit.

MR. DEVORKIN: I'm sorry. I am not going to offer the exhibit at this time. I will with a witness

shortly.

R O S E G L A T T E R, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Miss Glatter, how are you currently employed?

A I beg your pardon?

Q How are you currently employed?

A I am a supervising clerk.

Q Where?

A In the Department of Buildings.

Q And which division?

A Division of Licenses and Permits.

Q What kind of licenses and permits?

A For hoist machine operators and engineers.

Q And what does that division actually do for the Department of Buildings?

A Well, we issue licenses for hoist machine operators and renew them.

Q That's for the City of New York?

A Right, sir.

Q Do you maintain any records of those renewals?

A Yes, we do.

Q Are records of renewals or licenses kept anywhere else by the City of New York?

A Not to my knowledge.

Q You have all of the records?

A We have all of them.

Q When a man renews his hoisting license, what must he do?

A He must either bring in or send in to us his previous year's license, one photograph, a renewal card and the fee.

Q I show you Plaintiff's Exhibit 12A for identification and ask if you recognize that?

A Yes, I do.

Q What is that?

A That's a renewal card for a cherrypicker.

Q And are there similar cards for other hoisting machinery?

A Yes, sir.

MR. DEVORKIN: I offer 92A, your Honor.

THE COURT: Any objection?

MR. BRADY: I have no objection.

MR. KENNEDY: No objection.

THE COURT: Received.

(Plaintiff's Exhibit 92A was received in evi-

dence.)

xx Q What does the man bring in with his renewal card, Miss Glatter?

A When he comes in he brings in his previous year's license with the renewal card and one photograph.

Q Does he bring in any money?

A Yes, his fee. If he is on time it's $5; if he is late it's an additional $3.

Q And if he brings all of that in to you does he automatically get a renewal?

A Yes.

Q How often must a man renew his license?

A Once a year.

Q And how long is the license then good for?

A For one year.

Q From the date he renews it?

A From the date of renewal to the following year.

Q Do you maintain any records of these licenses?

A Yes, we do.

Q What kind of records do you maintain?

A We have what we call his index card. That has his permanent license number on it.

Q Do you have any kind of alphabetical listing?

A We have an alphabetical listing that will tell us a man's index number in the event we do need it.

Q What's in that alphabetical listing?

A We have his name and address and the year that -- the number of the application for the position, for the text.

Q Do you have the number of his license on the alphabetical card?

A Yes, we do.

Q What cards actually are in the alphabetical file?

A It's actually an index card about like that (indicating).

Q How far back in time is your alphabetical file?

A It goes back quite a few years.

Q How far back?

A Let's say to about 20 years, at least. Those alphabetical cards.

Q If a man had a license any time in the last 20 years it would be in that alphabetical file?

A Yes, sir, we have that.

Q I show you what's been marked as Plaintiff's Exhibit 92B for identification and ask you if you recognize

that.

A This is our index card.

MR. DEVORKIN: I offer 92B.

MR. KENNEDY: Your Honor, I would like at least the witness to testify as to what goes on this card. It's a blank index card and I assume that there is some writing --

THE COURT: I think she just testified what is on it.

MR. DEVORKIN: She can go through it again.

THE COURT: She just testified to it.

Q On this particular card, what is on this card?

A We put his name and address in the upper left-hand corner.

In the center under the "Type," where it says"Type A," we have the Municipal Civil Service Commission application number, and then right under that we have what we call a letter number for when we send the applicant a letter to come in to be fingerprinted again and to be processed further, when he gets his original license.

Q Is his license number on here?

A Yes, sir.

THE COURT: Received in evidence.

(Plaintiff's Exhibit 92B was received in evidence.)

xx Q Now, besides this alphabetical file, do you maintain any other files?

A We have a numerical file.

Q What is that?

A That is what we call the index card. That has the man's name, his address on the bottom, his permanent index number, which is his license number over in the --

Q Let me show you what's been marked as Plaintiff's Exhibit 92C for identification and ask you if you recognize that.

A Yes, I do.

Q Is that the index card?

A Yes, sir.

Q You also put the type of license the man has?

A Yes, sir.

Q What would that be?

A That would be if he is a hoist machine operator, passed the test, Type A.

Q Any other types?

A And there is a Type B after he has held the

Type A license for a while, he is permitted to take the Type B.

MR. DEVORKIN: I offer 92C. I'll show a copy to counsel.

MR. KENNEDY: No objection.

MR. BRADY: No objection.

(Plaintiff's Exhibit 92C was received in evidence.)

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Q You mentioned the photograph that the man supplies you. Where is that kept?

A Originally we put one photograph in the back of the index card and then we have the photograph that he brings in each year and we attach that to the current license.

Q Are these index cards kept in any particular order?

A Yes. We have -- if he renewed it we have it in one drawer for 1974, and anything that hadn't been renewed up to now we keep in a drawer marked 1973.

Q So all the renewals of 1974 are in one drawer?

A Right.

Q Do you also have some applications for renewals that you may not have processed yet this year?

A Yes, sir.

Q And do you keep those any particular place?

A Away from these. We have them in a different drawer entirely.

Q And they are all kept in that drawer?

A Yes, sir.

MR. DEVORKIN: I have no further questions of this witness.

THE COURT: Any questions?

CROSS EXAMINATION

BY MR. KENNEDY:

Q Miss Glatter, does each individual license have a different expiration date?

A No.

Q Is it the same date?

A No.

Q Allright. Can you explain to me?

A Well, it's rather -- the man could get an original license, like, for instance, the 1st of October. That is his expiration date. Another man could come in and get his original license, let's say, on the 15th of October. That's his expiration date.

Q So that they are different for each license.

THE COURT: No. Two or three people could come in on October 1st.

THE WITNESS: Yes.

MR. KENNEDY: You are quite correct.

THE WITNESS: You are right. I'm sorry.

Q What I am getting at is this:

There is no one time, like, we will say, a driver's license, where it expires January 1?

A No.

Q Can you tell us, what does the hoist operator's license consist of?

A I don't know the mechanics of it.

Q What I am getting at is this, Miss Glatter:

Does it entail different types of cranes?

A Yes. We have a Type A or a Type B, and we also have Type C.

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Q Is the Type C a cherrypicker license?

A Yes.

Q And the Type A is what?

A That is a hoist machine that the operator is permitted to operate up to a 200-foot boom.

Q And the Class B license is for?

A Unlimited, 200 feet and up. Unlimited.

Q The A license includes the elevator hoists and other types of equipment?

A I haven't the slightest idea.

Q Can you tell me how many applications are now pending and put in that little drawer?

A We are very much backlogged and I have every bit of about 200.

Q Now, are there times when people come in to renew their license where you are so busy,talking about a personal appearance now, that they are turned away?

A They are never turned away.

Q Are they told to come back at some other time?

A No, we sent it out to them.

Q You ask them to leave the license?

A Right, and we process it and send it out to them.

Q Would those situations bein the same drawer as the 200 or so other applications?

A Yes.

Q In other words, where the man comes in personally and leaves the license there, or whether he mails it in, those would go into the same drawer?

A Right.

Q Mrs. Glatter, I wonder if your records indicate, for instance, whether a man has died or has retired from the profession?

A Only when we are notified. Otherwise we have no way of knowing whether he died or whatever.

Q Now, there has been somewhat of a change in the licensing procedure recently, isn't that correct?

A Not that I know of.

Q Well, wasn't there a time when licenses were renewed quite quickly?

A Yes.

Q That is not so today?

A No.

Q What was the cause of that?

A Well, reduction in help by attrition or resignation, retiring and so forth.

Q And it was that that caused this particular backlog, is that right?

A Right.

Q And when you say there are 200 applications pending for renewal, could there be more than 200?

A I really don't know.

Q You don't keep an accurate count, this is just a guesstimate on your part?

A Yes.

MR. KENNEDY: I have no further questions.

MR. BRADY: No questions.

REDIRECT EXAMINATION

BY MR. DEVORKIN:

Q All the pending applications are in the one drawer, are they not?

A Right.

MR. DEVORKIN: Nothing further.

THE COURT: You are excused.

(Witness excused.)

MR. DEVORKIN: Anita Kramer.

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A N I T A K R A M E R, called as a witness on behalf of the plaintiff, being irst duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Miss Kramer, where do you now work?

A United States Attorney's Office for the Southern District of New York.

Q What do you do there?

A I am a research analyst in the Civil Rights Unit.

Q I show you what has been marked as Plaintiff's Exhibit 91 for identification. I ask you if you recognize it?

A Yes, I do.

Q What is it?

A It is a print-out on which I made some markings.

Q Can you tell us where your markings appear on the print-out?

A Yes, they appear on the righthand side.

Q Handwritten?

A Yes, they are.

MR. DEVORKIN: I apoligize, I have only one copy of the document. We will copy it and furnish copies to

counsel. Right now I only have one copy.

THE COURT: All right.

Q Can you tell us how you came about putting those markings on the document?

A Well, yes. I had my own document which was an exact duplicate of this, which was a work sheet, and I took it with me to the Building Department, City of New York and Department of Permits and Licenses and I looked through their name file and put down if there was one, a license number for all these people listed on this print-out.

Q Did you hear Miss Glatter's testimony?

A Yes.

Q When you say the name file, is this the alphabetical file?

A Yes.

Q What did you do with that file precisely?

A Well, I looked forthe name file to get the license number and I did that for all 62 pages on this print-out, for the names on the 62 pages and sometimes I got a license number and sometimes I didn't.

Q Did you always find a man who was on that list in the alphabetical file?

A No.

Q What did you do then?

A I left the marking blank, I didn't mark anything.

Q After you finished with that entire list, going back through the alphabetical file, what, if anything, did you do next?

A Then I went to the license file and looked up all the license numbers that I had listed.

Q That is the file Miss Glatter referred to as the index file?

A Yes.

Q What precisely did you do with that index file?

A I was interested to see who had renewed his license between the dates of September, 1972, and August, 1974.

Q Which date in September?

A September 1 to August 31.

Q 1974?

A Right.

Q What exactly did you do?

A I checked the index file and if I saw there was a renewal, in those dates, then I looked to see if he had an A license or a B license and made the appropriate marking.

Q The index file is kept numerically by license number?

A Yes. Also by year. So I would go to the 1974 drawer first and look for my dates, which would be January 1 through August 31, 1974, and if I found it, I would see if it was an A license or a B license, and then I would go to the 1973 drawer for the September, October, November and December, 1973, and do the same thing.

Q Did you do that for each person on Plaintiff's Exhibit 91 for identification for whom you found a license number in the alphabetical file?

A Yes.

Q If he had not renewed his license between September 1, 1973, and August 31, 1974, what, if anything, did you do when his name appeared on the list?

A I put a dash next to his name.

Q On your work sheet?

A On my work sheet -- no, I put an X on my work sheet.

Q You heard Miss Glatter testify about the drawer that had the pending applications?

A Do you mean the ones that weren't processed?

Q Yes.

A Yes.

Q Did you ever examine that drawer?

A Yes.

Q What did you do?

A I did exactly the same thing.

Q Did you examine each of the pending applications in that drawer?

A Yes.

Q How did you examine them in relation to this list?

A Well, on the pending applications, they were all in bundles, several bundles. I would estimate there are around 150.

I looked for the license number -- made a list for myself of names so it would be easy to find in the alphabetical list and then I looked for the license number in case I need it. Then myself and another person went through the print-out and we made the same markings and also whether he had an A license or a B license and when he had renewed, because we were interested in the same times and made the same markings as if they were in that drawer.

Q Did you do all of this yourself?

A No.

Q What didn't you do yourself?

A I was so involved in everything, it is really very difficult.

Q Is some of this what you did yourself?

A I went through all the alphabetical index by myself. I had a law student help me in the last 30 pages or so of the print-out.

THE COURT: It was done under your supervision?

THE WITNESS: Yes.

Q Did you do anything from your work sheet with respect to Plaintiff's Exhibit 91, the document actually in front of you?

A Yes. I made markings on it from my work sheet, on to this sheet in a coded symbol along with Mr. Glassman.

Q What were those markings?

A Those markings were an A, B or a dash and some I just left a blank.

Q I show you what has been marked as Plaintiff's Exhibit 91-A for identification.

A There was a coding, a square for a mistake.

Q Did you block it out?

A Yes.

Q I show you what is marked Plaintiff's Exhibit 91-A for identification. What is that?

A This is in my handwriting, an explanation of the print-out symbols.

Q The ones that you marked?

A Yes, the ones I marked.

Q Did you ever have any occasion to count up the number of A's and the number of B's and the number of zeroes and the number of dashes?

MR. DEVORKIN: May I have the Court's indulgence?

(Pause.)

Q Miss Kramer, would you examine 91-a, please?

A Yes.

Q Is it possible that where it says dash equals license number but has not been renewed, and zero says never had license number, that it is actually the reverse?

A Yes, it is possible.

MR. DEVORKIN: I propose to stipulate that actually the dash and the zero are reversed on the chart here.

THE COURT: Why don't we change the exhibit?

MR. DEVORKIN: All right.

THE COURT: And why don't we adjourn for lunch now. 2 o'clock.

(Luncheon recess to 2.00 P.m.)

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AFTERNOON SESSION

2.00 P.M.

ANITA KRAMER, resumed.

DIRECT EXAMINATION CONTINUED

BY MR. DEVORKIN:

Q Miss Kramer, I would like to again show you Plaintiff's Exhibit 91 for identification.

I ask you now if that is an accurate description of the markings that you placed on the list and what those markings mean?

A Yes, it is.

Q Did you have occasion to count up the number of A's and the number of B's and the number of zeroes and the number of dashes and the number remaining blank ?

A Yes, I did.

Q I show you what has been marked as Plaintiff's Exhibit 91-B for identification. I ask you if you recognize it?

A Yes, I do. It is a summarization of my markings on the print-out according to A, B, zero, dash and blank.

Q The number of A's and B's and so forth?

A Yes. And the total.

Q After you completed what you did with respect to that listing, Plaintiff's Exhibit 91 for identification,

did you examine the files in the Building Department in any other way?

A Yes, I did. I went through the 1974 drawer and I looked at each and every license alongwith the law student who was with me.

Q Working under your supervision?

A Yes. He was helping me with the print-out and we looked at the pictures on each and every one of those licenses to see who was white and black and looked at the names to see who has a Spanish surname, and that was from January 1 through August had they renewed.

Q Which date in August?

A August 31.

Q Did you have occasion to sum up the numbers of each category of licensee that existed?

A Yes.

Q In 1974?

A Yes, for A's and B's.

Q I show you Plaintiff's Exhibit 91-C for identification. Is that your summary?

A Yes, it is.

Q Can you tell us what Class A means on this summary sheet?

A That is the type of license.

Q And Class B?

A The type of license.

Q And minority?

A That means black and Spanish surnamed.

Q When this law student was working under your supervision did you give him instructions about what to do?

A Yes.

Q Did he follow those instructions?

A Yes.

Q Did you take any steps to make sure he was following instructions?

A Yes. I checked with him every so often and quite frequently to make sure that he was doing everything step by step.

MR. DEVORKIN: I offer Plaintiff's Exhibits 91, 91-A, B and C in evidence.

THE COURT: Of course, subject to check by defendants.

MR. DEVORKIN: That is all, your Honor, and cross-examination.

MR. BRADY: No objection.

MR. DEVORKIN: Defendants may, after reviewing their records, change it because some of the Local 14 men may actually be in Local 14-B and the union has some other

up-to-date records. They may make those changes on it.

THE COURT: With that understanding, I will receive them in evidence.

xx (Plaintiff's Exhibits 91, 91-A, B and C received in evidence.)

MR. KENNEDY: May I cross-examine, your Honor?

THE COURT: Are you through?

MR. DEVORKIN: Yes, I am through, your Honor.

THE COURT: Yes, go ahead.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Miss Kramer, do you have Government's Exhibit 91-B in front of you?

A Yes.

Q As I understand it, the zero next to the name stands for a person who appears to never have had a license, is that correct?

A No, the dash means never. That is what we just -- we had made a mistake this morning.

Q So then is it true that looking at 91-B, the figure 294 appears to be the number of people in Local 14 who never had a license, is that correct?

A Yes.

Q Now, when you were doing your compilation, Miss Kramer, did the government explain to you that people in

14-B were not required to have a license?

A No.

Q So were the people who were listed as 14-B men, were they removed from the 294 figure?

A Yes, they are blank.

Q Well, I call your attention to 91. Do you have that in front of you?

A Yes, I do.

Q That is the print-out?

A Yes.

Q I refer to page 1, the next to the last name, Frank Ambrosia.

A Yes.

Q Is it indicated he never had a license?

A Yes.

Q Is he indicated on the chart as being a 14-B man?

A Yes.

Q So he was not deducted from the 294, was he?

A He didn't have to be. He was included as a blank, not a dash.

Q Is he included in the 294 figure as never having had a license?

Do you understand the question, Miss Kramer?

A Yes, I think -- yes, he is included.

Q He is included in the 294?

A Yes.

I am really very confused.

MR. KENNEDY: All right. Perhaps we can start over again. I am only trying, for my own information, your Honor, to find out certain matters as to how this thing was arrived at.

Q Let's go back for a moment, Miss Kramer, to Exhibit 91B.

A Okay. I have that in front of me.

Q Those are your calculations?

A No. It would be in the line calculation because I left it blank.

Q In other words, you have 294 names marked with a blank, is that correct?

A No. I have 111 names. Just blank. They have nothing on them.

THE COURT: The ABO, dash and blank total 1534, so that I don't see how the blanks would be included in dashes.

A The blanks had nothing on them.

Q In other words, I wanted to find out if Mr. Ambrosio, who was a 14B member, is classified as a dash or a blank?

A A blank.

Q A blank?

A A blank, yes. Blank as if it was just not there.

Q And what's the difference between a blank and a dash?

A A blank is a 14B member.

Q So you listed 111 14B members?

A Yes.

Q So they were not included in the 294 figure?

A No.

Q I ask you to turn to page 6 and I ask you to look at the name George Brendel.

A Yes.

Q There is a George Brendel indicated as not having had a license, isn't that correct?

A Yes. Well, I have, on my printout, two George Brendels, both next to each other, and the bottom one is crossed out because it's a duplicate of the top one.

Q Right, because they both have the same Social Security number, is that correct?

A Yes, it's obviously a duplicate.

Q Was Brendel indicated as being included in the 294 figure?

A Well, no. He's got an A license, so he is included in the 422 figure

Q All right, because we were checking before and we were marking, after the recess, and I was trying to get a list of people and I perhaps inadvertently made some errors in my own calculations in examining the government's exhibit.

THE COURT: All right. Nobody is perfect.

Q Did you make that correction over the lunch hour?

A Yes, I did.

Q Then I was correct the first time that originally you had Mr. Brendel listed in either the 294 category or the 111?

A Yes, but I reviewed my work sheet next to this exhibit during lunch and I saw that on my work sheet I had it ri ght and the duplication, I just --

MR. KENNEDY: Would it be possible, your

Honor, to mark Miss Kramer's work sheets for identification? It need not be done right now.

THE COURT: Surely. If you have them.

MR. KENNEDY: I have them.

May I have them marked for identification so we will keep everything in order.

(Defendant Local 14 Exhibit A was marked for identification.)

xx BY MR. KENNEDY:

Q Did you make any other corrections during lunch?

A Yes. I went down by local list to make sure I had all my 14B's blank.

Q Thank you.

Now, I have only anotherquestion, Miss Kramer. You heard the lady from the city, Mrs. Glatter, testify?

A Yes, I did.

Q Did you hear her say that if notification was sent into the city by the person retiring or not renewing the license --

THE COURT: Or dying.

Q -- or dying, they would remove the card?

A Yes.

Q Did you ascertain whether or not there was any

such list?

A No. Well, she didn't say there would be a list. She said the card would be removed.

Q Right.

A Okay. So the cards that were left would be the people who were alive, not retired,and those are the ones I checked.

Q Now, I call your attention to page 6.

A Yes.

Q There is a name Brackett.

A Yes.

Q Now, Mr. Brackett, I take it, is indicated as never having had a license.

A Yes.

Q Mr. Brackett is indicated on the exhibit as not having had any earnings in '71, '72 and '73, isn't that correct?

A Well, the earning space is blank, so I assume so.

Q And the address of Mr. Brackett is Sunrise, Florida, isn't that correct?

A Yes.

Q Now, it is possible that Mr. Brackett had his card removed, is that correct?

A Removed?

Q Yes, as having retired?

A I don't know. I don't know what -- it's possible.

THE COURT: Didn't you check the cards and his card was there?

THE WITNESS: No. It was an error.

Q And there are a number of people who are indicated on Government's Exhibit 91 as having shown no earnings for '71, '72 and'73 who are living outside of the City of New York now, isn't that correct?

A I can't answer that question, sir.

THE COURT: That would appear from the printout, would it not.

MR. KENNEDY: Yes.

THE COURT: Then you can also submit a list of those, if you want.

MR. KENNEDY: I have no further questions.

MR. BRADY: I have no questions.

THE COURT: And the government, I take it, has no other questions.

MR. DEVORKIN: That's correct, your Honor.

THE COURT: You are excused.

(Witness excused.)

MR. DEVORKIN: The plaintiff calls Major Williams.

MR. KENNEDY: Your Honor, I was wondering if the government would state the reason for the offer of 91 so that in rebuttal perhaps it might make the trial a little bit shorter.

MR. DEVORKIN: The document speaks for itself. It shows what the earnings over a three-year period were, annual averages shown, of members of the union, both black and white and Spanish surnamed, and it shows what the average earnings were for members who had an A license or a B license or didn't have a license, who didn't renew their license.

THE COURT: And those who were in minority groups and those who were not, and I think you can gather from that what the offer is.

MR. KENNEDY: Thank you.

L O N N I E W I L L I A M S, called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DEVORKIN:

Q Mr. Williams, how are you currently employed?

A Career officer, United States Army.

Q What is your rank?

A Major.

Q Major Williams, how long have you been in the Army?

A I have been in 14 years, sir.

Q Are you assigned to any particular division or branch of the Army?

A Career branch, Corps of Engineers.

Q Have you always been assigned to the Corps of Engineers?

A Yes, sir.

Q Where are you presently stationed?

A Fort Belvoir, Virginia.

Q What is your assignment at Fort Belvoir?

A I am the chief of the Individual Training Branch, Fort Belvoir, United States Army Engineering School.

Q For whom do you work?

A The chief of the Training Programs Division.

Q What is the Training Programs Division?

A By and large we are responsible for unit and individual training and MOS testing or occupational testing of individuals in the Corps of Engineers.

Q Aside from the Individual Training Branch, of

which you are the chief, are there other branches within that division?

A Yes. There is the MOS Test Branch, the Unit Training Branch -- two other branches besides my own.

T3

Q What does the MOS Test Branch do?

A MOS means Military Occupation Specialty and that is a number given to an individual to show what he does.

The MOS Test Branch writes and manages all the MOS tests for the engineer students, students with engineering propensity MOS's.

Q What does the unit training branch do?

A The unit training branch designs training programs and writes the standards for training for engineer units in the Army and when I say in the Army, I mean anywhere in the world in the Army, world-wide.

Q Before you went into the Army how far did you go in school?

A I have a BS in Architecture.

Q What are your duties and responsibilities as chief of the individual training branch?

A Primarily the duties are the writing of engineering training programs for engineering enlisted men in the Army.

There are other side duties which have come about as a result of that title. For example, writing, bringing together all of the services training for construction equipment operator, vertical skills, to equipment mechanics;

basically all of the building and construction trade skills and mechanics, topographic engineers, cartographic draftsmen, soils people, all engineering skills.

Q We develop the programs both from the Army standpoint and we have been designated by the Department of Army as the executive agent to develop the service training programs meaning the Armed Forces, the Marine Corps, the Army and the Navy participating.

Q Is this the entire career and training and development program for the Army?

A Indeed, it is. It is in the form of a regulation and it outlines the entire structure, let me rephrase that, career structure for the enlisted man who comes in the Service.

It tells him where he starts off in a particular MOS, all the way up to the top, and he can finish off as an E-9, the highest enlisted grade.

Q Aside from operators, do your training responsibilities cover any other trades and crafts?

A Yes, as I said before, all the engineering skills which includes the vertical skills, plumbing, electrical, carpentry, masonry-type thing, and it includes also the mapping and geodetic skills, printing, surveying, soils.

Q Has the Army been given any responsibilities with respect to training vis-a-vis the other services?

A Indeed. We have been designated, and again, as I stated earlier, as the executive agent which means basically we are an arm of our next highest headquarters and we have been designated to draft, design, develop and coordinate the building and construction trade skills.

The Army in this case is trying to save some bucks DOD-wide by bringing all the services together at one location for training and we are the responsible agent for developing the program on which the services will train.

Q Have you been given any responsibility with respect to the Army responsibility for developing that interservice training program?

A Well, I am the project officer, yes, sir, for that development.

Q Before you received your present assignment -- by the way, when did you begin your present assignment?

A April of 1973, the last part of April.

Q What does DOD stand for?

A Department of Defense, sir.

Q Before you got your present assignment, what did you do in the Army?

A I will start off with 1960. I was a platoon leader in a combat patrol and in that capacity I was responsible for about 44 men and about 10 items of equipment, not all construction equipment but trucks and Army personnel carriers and things like that included.

Q Were there pieces of construction equipment?

A Yes, crawler tractors or the common term, bulldozer.

Q And after you were the platoon leader?

A After that I moved up to Ex O and as that I was second in comman, I was the executive officer, which means that I managed and was second in command of the entire company which had about 144 people.

We had three dozers, two cranes, and those kinds of items. That was about a year and a half assignment.

Q What were your responsibilities as executive officer?

A As executive officer I was primarily responsible for making sure that the company was administratively running properly. At that type of job there is not very much field duty, most of the field duty is the platoon leader or the company commander. I held that job a couple of months and that I was company commander.

Q What were your duties as company commander?

A You are responsible for about 144 people again and your responsibilities are involved directly with job site supervision, assign projects, responsible for training the individuals in all aspects, whether it be equipment or whether it is an administrative type of supply and messing and that kind of thing.

Q What kind of projects did your unit get involved with?

A The first one that comes to mind was a timber trestle bridge where we had to excavate a bridge site using a clam shell and using also the dozer to backfill it, using different kinds of saws to saw the timber to the right length and design the bridge, of course, that was the first part.

But it was a timber trestle bridge from here to the back wall, say 40, 50 feet in span capable of carrying a tank. That was the first job I can remember.

Q Any other jobs that you can remember?

A Road projects, road cleaning, primarily using some hand labor, and this was a ditch that was dozer-blade wide so it was road maintenance type work.

Q After you were company commander what did you do next?

A I was Assistant S-3, which is an operations

officer. An operations officer in the Army is the job manager.

He is a middle manager who is responsible for several jobs. He is included in the design process, he is not part of the command structure but he is also an inspector. He goes out to job sites.

Q What kind of job sites?

A Construction jobs. Typical jobs are road construction, maintenance of target trains on ranges, timber trestle bridges,those types of things, and you manage the equipment, assign it to the site where needed most.

While at the job see if it is going well. If you are pouring concrete, to check to see if it is the right density and mix. If it is not, you change it. You have that authority.

Q What kind of equipment would be used?

A Again, the dozer, the crane, air compressor for the concrete, the concrete mixer itself, the 16-S mixer, which is a portable type mixer, small mixer.

Q Were you ever assigned overseas?

A My next assignment was in Vietnam, where I was in supply, and it was not related to any equipment at all.

But following that I came back to the States and

I worked as -- I told you about that job, the Assistant S-3 job.

Q Any other overseas assignments?

A Yes, Korea. I was assigned as operations officer of a combat patrol battalion responsible for approximately 900 men.

Again you are operations officer and you have a unit which has approximately 12 dozers,cranes, probably eight or ten cranes, several air compressors, scoop-loaders or bucket loaders -- I don't know what term you use here. But two per company and that is about eight or ten bucket loaders.

Graders, about six graders, again general types of construction equipment.

Q What kind of cranes were those?

A As I recall the ones in Korea were Bucyrus Erie or they might have been American-type cranes, 20-ton cranes and they are truck-mounted cranes.

But I was operations officer for the battalion. Here again it is something like the Assistant S-3 job except that as the assistant you are not directly responsible but as S-3 you are indeedresponsible for the management of the jobs, for inspecting the jobs, making sure they go right according to schedule and for laying on the equipment for

the next two or three days' operations ahead of time so that you don't get behind on it.

Q Ordinarily does the Army ever impose time limits on performing jobs?

A Absolutely. As a matter of fact, personally I insist on time limits on jobs. I think it is a good management tool.

Q Have you ever received any formal training from the Army?

A Yes. Starting off with about a 32-weeks' course when I first came in the Army and this was down at Fort Belvoir, Virginia. It is the basic engineering officer's course and there we basically take a civilian and try to teach him something about the Corps of Engineers, what the equipment is, how to use it, how to manage it, and get an idea of what type of units you will be working with. They give you tactics, tell you about weapons, this kind of thing. That is for the first course.

The second course was airborne school, which was simply jumping out of airplanes successfully and trying to survive.

The third school was a Prefix 5 school, this was overseas. That teaches you how to blow up things with atomic demolition and to do it right.

The next course was engineer maintenance officers' course where basically you learn how to maintain equipment, all kinds of equipment whether a truck or whatever it is, and how to make the reports out that keeps the people in St. Louis advised what is happening to this equipment during its life span.

Q Does it also include heavy material equipment?

A That is what I am talking about, yes.

The next course that I recall was a manpower management officers' course, and that course taught you basically management skills with people, work processes, how to best manage people, how to flow work through different operations, flow people primarily, that type of school.

That was followed by the officers' advance course, and this is just preparing a guy to be a company commander or S-3. I was already one of those, I kind of got in the back end, but by and large you got a look at the equipment again meaning you went out to the equipment, it showed you again how to use it and employ it and the utilization of equipment. Also taught management principles, mine warfare, bridging, fixed soils, quarrying, basically the engineers' skills that I talked about before, and it was given from the standpoint of management.

Q Did you graduate successfully from all those courses?

A Indeed.

Q How old are you now?

A 37.

Q Are you familiar with any training, formal training program the Army might have for enlisted men in the Corps of Engineers field?

A Formal training, yes, sir.

Q What are the programs?

A By and large most of them are formal -- formal to me means at school. But it could mean something else. There is formal training at Fort Leonard Wood, Missouri, and also training at Fort Belvoir, Virginia, on engineering subjects.

Q What type of training is that?

A At Ford Leonard Wood, primarily all of the building and construction trades skills, including plumber, carpenter, electrician, crawler tractor, grader, wheel tractor, air compressors, compaction equipment, asphalt plant; concrete plant was stopped -- the big items.

Q Cranes?

A Cranes even died, yes.

Q And at Fort Belvoir?

A Primarily the generator mechanic, generator operator, nuclear power plant operator and all the topographic skills or mapping skills are taught at Fort Belvoir.

Q Do any of the other Army forts around the continental United States have training for heavy equipment operator?

A Units have their training programs. I will say that not all units have training programs, but the units that I have been associated with had one because I developed the training program.

Q Have you ever visited Fort Leonard Wood?

A Indeed, yes. That's part of our normal coordination. In development of training we visit the

training site. I've been out there, I guess, about once every two months over the past 18 months.

Q Are you in any way responsible for the training offered at Fort Leonard Wood?

A Am I responsible?

Q Are you in any way responsible for the kind of training offered at Ford Leonard Wood?

A Yes. We develop what is called an army subjects schedule and that drives the training at Fort Leonard Wood.

Q They follow that?

A Indeed. They are required to follow it.

Q When you go out to Fort Leonard Wood what do you actually do out there?

A The first job is to make sure that what is written is being followed, and if it is not, to recommend that it be changed. Or if it is not being followed, if they indeed want to change it to the way that they are doing it, we listen to that always. In other words, if they find a better way to build a mousetrap we listen to that.

But my responsibility directly is to look at the training to see if it matches what we have produced at Fort Belvoir.

Q You actually inspect the classes?

A We go out to the classes and get muddy right along with the troops, talk with them, ask then questions, get their opinions of the training and the whole thing.

Q Have you ever had any occasion to examine any literature in the field of training heavy equipment operators?

A Yes.

Q What kinds of literature?

A Other services have similar training, as I sasid earlier. Other services have training programs, and it is in the form of some type of literature and in the interservice arena, we have to look at their training and see how it matches up with ours. If we can save time and dollars, that's the basis for it.

Q When you say the other services, you mean --

A Navy, Marines and Air Force. And we look at their training programs, but we also look at the training. In other words, I have been to the Navy's equipment school, and not just the equipment school but all the classified schools, and the Air Force school, and looked at the training on the site. Port Hueneme and Sheppard Air Force Base, Texas.

Q Have you ever had any occasion to examine any

government training literature or any union training literature?

A Union training, yes. Just as a part of my job, when I first came to the position about a year ago I inhereted a project which was on-going, and this required us to look at any training literature that was available on equipment operators' skills, and this included the national IUOE's training literature. It included soemthing from -- something approved by the Bureau of Apprenticeship and Training, Department of Labor.

Q I show you what is Plaintiff's Exhibit 77 in evidence and ask you if you recognize that.

A Yes. This is the national apprenticeship standards for operating engineers. We have copies of this set of standards and we also have copies of other standards which don't pertain to the operating engineers. We looked at several sets of standards.

Q Who put that out?

A Published by the Bureau of -- no, it wasn't; the union. I really didn't know until I looked. But concurred in by the Department of Labor, Bureau of Apprenticeship Training.

Q You had occasion to review that?

A Yes, indeed.

Q Have you ever had any occasions to observe civilian construction work in use of heavy equipment operators?

A Yes.

Q Where and when?

A As a part of my own professional development, during the classes that we attended at Fort Belvoir, Virginia, we were taken out to several large vertical construction and horizontal construction jobs in the D.C. area, in this case, in Washington, D.C. That among many other occasions when I simply go by a job site and look over the fence just to see what is going on and how things are done on the outside.

Q What types of jobs were those?

A The ones that we looked at during the class, during the advance course, were a high-rise development I think it was an office and apartment complex. It was.

And the horizontal construction job was an asphalt paving job and it had the various stages of road construction, where you have the base course: The excavation, the base course development, the lifts, the material, the rolling, the compaction, so it had most of

your major items of equipment involved with it.

Q Have you ever observed any subway construction work in the Washington, D.C. area?

A Yes, indeed. The subway is finally showing its face and it is beinh recognizable. During the first few days there was very little that you could see, but now you can see items of equipment on top.

I haven't been down into the holes but you can see the stations that are being -- I forget what they call them, but the stations for the subway that are being developed and excavated up around the Pentagon and various areas all around the city, not just in D.C., but in Virginia, also.

Also in Houston, Texas, I have looked at highway construction there. In Alexandria, Virginia, I have looked at the construction of U. S. -- really, rehabilitation of U. S. 1, which is the route that I take to work every day.

Q Have you ever had occasion to inspect civilian construction sites in New York City?

A Yes, indeed.

Q When?

A In the last couple of days, yesterday and this morning, I looked at several sites around the city and

I --

Q How did you do that?

A I was driven around by a representative of the Department of Justice.

Q And do you know which sites you went to?

A There are several that I can recall. If I can get the words right, Perini North River development site, where I saw hydraulic cranes at work, some cable cranes; Second Avenue subway, where primarily there were hydraulic cranes, two or three cable cranes; Battery Park City, which is under development also, not too far from here, where I saw Cat scoop loaders, a small Cat 7 or a Cat 6 dozer, several cranes, those types of items of equipment.

Q Is the equipment that you have seen on civilian construction sites, including that in New York City, similar or different from that you have seen and used in the Army?

A It's very similar. If you get right down to it, the cranes that are cable cranes are very similar. We have, to the best of my knowledge, no crawler scoop loaders in the Army, but the scoop loader itself, the part that does the work, is the critical part and not the carrier. The crawler is there so that you can get the traction and the stability that you need.

We have wheeled scoop loaders as opposed to crawler tractors. But there are Cats, we have Houghs and Allis-Chalmers scoop loaders.

By and large, a scoop loader is a scoop loader is a scoop loader.

Q How about rollers or pavers or graders or scrapers? Are those that you have seen in civilian use comparable to what you have seen in the military?

A Yes, indeed, and this includes not just Army. I am speaking purple-suited here because I am speaking for the equipment in the other services.

Sorry, sir. Instead of a green suit, Army, we are also blue-suited of the Air Force and the green-suited Marine look when we see things, and we just call it purple suit.

Q Now, prior to 1968 what kind of formal training did the Corps of Engineers give enlisted men for operating heavy equipment?

A The date is critical.

Prior to 1968 an individual received multi-skill training. He would not only be a dozer operator, he would also operate the grader, the crane, the pan, the scraper, the air compressor and so forth.

Q How long a period of training, that is, formal

training in school, would a man get from the Army prior to 1968?

A My -- I have to approximate it. My best guess is about 10 weeks, and this based on looking at records which I have. I just can't go back that far in time.

Q What would his daily routine consist of at the school?

A Well, of course, the principal part of it is operating the equipment, but starting off in the mornings the individual would probably receive some type of a chalk talk in the classroom atmosphere, be given the essentials for prestart. After that, or after perhaps another period of instruction, he would go out and actually do the prestart procedures on whatever item of equipment he is working.

After he gets the procedure down to the chalk talk plus the actual application the individual is given some time to go out and practice the skills that he has learned.

This goes on for whatever length of time, in this case it was approximately eight to 10 weeks -- this is my best guess -- for that method of training.

At the end of the period the individual was

given a test and either passed or failed.

Q Would he operate every day during that training period?

A Some would and some would not.

Q After 1968 was there any change in the Army's training program?

A Yes. The Army's training program was drastically reduced because of a change in training concept.

Again, the reason why the date was so significant is because it was the height of the Vietnam operations, and so the commanders were telling us that they want an individual in the field to have more training when he hit the field, when he hit it the first time.

So we changed our concept and we designed a course of about six to eight weeks' duration on each item of equipment.

Q When you say"each item," what do you refer to?

A Well, a dozer, for example, instead of being lost in the middle of the eight to ten weeks of training, would have seven weeks of training, the grader would have seven, the fork lift and backhoe would have six weeks of training, and so forth. The pan would have eight weeks, the crane would have eight weeks, and right down the line, seven or eight weeks.

Q Taking the period of time both before and after 1968, what were the Army's expectations of a man's ability after he finished the formal training program; what would you expect --

A We would expect the individual to go out to the job, be able to start the equipment, be able to move it to the job site, do the required work, stop it, all properly and within safety regulations, which we also stress, and return it to its original place or leave it at the job site, either before '68 or after '68.

We changed the time but we didn't change the training.

Q Did you give them any maintenance or repair training either before or after '68?

A It's part of the operator's training. The maintenance and repair is basically troubleshooting, trying to find out what's wrong. He doesn't necessarily know how to fix it, but this is part of the training.

Q Do you give safety training?

A Safety is included, that's a big part of it, particularly with the crane.

Q Why does the Army use a classroom approach in addition to the on-the-field practical training?

A Well, the two are complementary. There are

certain skills and knowledges that are best imparted in a classroom, and then there are certain that are best imparted in an operational atmosphere, and our business is to decide how much of that is in fact inside and how much is outside work. That's part of our job.

Q Generally speaking, can you say what is best left to the classroom?

A Yes. Things that are best left up to the classroom are what I will call knowledge-type things and as opposed to a manipulative-type thing.

For example, grade stake principles, how to read one, what it is and where it is put and what's on it, what you do when you see one.

Q What is a grade stake?

A It's about two feet long, 1 x 2, approximately, and it has markings on it which indicate whether you should cut or fill or how far you are from the center line of a road, little markings like that. They are put on by surveyors to outline a project.

Q Are there any other skills besides grade stake reading that are best left in the classroom?

A Safety is another. And let me state it this way -- you have to give some indication of all of these things to the individual sometimes. If he has never

seen this before, you have got to hit him with it for the first time, and my own opinion is that the best place to do it the first time is in a classroom atmosphere, and you tell him about it just enough so that he knows what you are talking about, and then you put him on the equipment or you put him on whatever it is he is doing.

Q Does a man ever have any manuals in front of him or is he ever shown any films or slides?

A He has to follow the manual in everything that he does, and we also teach that in the class. Maintenance and operation. If he's got a problem, he's got the manual right there.

Q Now, since 1968, when this change took place, has there been any other change of any kind?

A Yes. More recently, I guess just about the time that I started, I also inherited another project, and in this case we have gone back to the multi-skilled training of individuals.

Q Why?

A We have determined through a lot of brainstorming, feedback from the field, looking at what other people are doing, looking at the job requirements and missions of the Army, that the best kind of an individual to be out there in a combat unit or construction

unit,and this really doesn't matter whether it is equipment, soils engineering, drafting or what the field is, an individual who is diversified in his skills is the kind of an individual that we believe the Army needs.

Q Did you change the length of the training at all recently?

A We reduced the training from, for example, a seven-week course for a dozer operator, and a dozer operator now has a five-week course, and in the five-week course he also gets training on another item of equipment and the five-ton truck and the Bobcat with the trailer. In other words, the five-ton tractor with the trailer.

Q How long is the training for each piece of equipment?

A The five-ton truck and tractor-trailer, 25-ton trailer, is one week; two weeks on the dozer and two weeks on the other item of equipment, whatever it is, and we have a choice, the individual can take one of several items of equipment if he is a dozer operator.

Another example would be a grader operator: he gets two weeks on the grader, two weeks on the dozer, one week on the truck, a total of five weeks.

Q Now, after a man finishes that training or, for that matter, when he finished the formal training in

1968, did the Army supply him with any training out in the field?

A Indeed. What we stated earlier concerning the units, the units have training programs designed for most skills that are taught in the Army and that type of training, in addition to NCO school, later on, down the line, is what he gets after the initial phase.

You mentioned something earlier about the length of training. Five weeks of training, that concept, and that's really what we are into now. I stated that the post-'68 training was no different from the present '68 training, and I would like to add onto that that the five weeks that we are getting now we haven't changed the performance standards for the individual, that the performance standards that we expect the individual to pass when he graduates from this five weeks of training were not lessened.

We teach baseline, what we call baseline competence or baseline skills. Once you teach that to the individual, we know that there is a transfer of skills from one item to the other, and we don't waste dollars in a classroom with him. We put him in the field where he can be useful.

Q Does the Army now or has it ever had any

expectations of men learning additional pieces of equipment in the field?

A We expect that they do. That's the way that they progress.

The next step up from the equipment operation is the equipment supervisor. In order to supervise the equipment the individual must have had some experience operating many kinds of equipment.

Q Are men in the field given any kind of tests?

A Yes. The MOS tests. They are given a test annually. This is the function of the MOS test branch which I indicated earlier. They write the tests and the tests are administered each year in the field.

Q What's the purpose of that test?

A To get a normal, active distribution of the people that are being tested for promotion purposes primarily. The people that score up above the point are the ones that get the promotions.

Q Is it fair to say there is a positive correlation between the man's rank and the scoring on the tests?

A I would say that's the rule. There are some exceptions.

Q Do you know what kind of training noncommissioned

officers receive?

A They have several stages of training. The basic stage is called the basic noncommissioned officers course. In that course, they receive advance training in their particular military occupational specialty.

In the case of equipment operators, they receive hands-on training at Fort Belvoir, Virginia, in the equipment that the Army has.

Following that they will attend an advanced course. Here they get more into the utilization of the equipment, as opposed to the operation. In other words, the management versus the manipulative skills.

Q Are they expected to supervise jobs and job sites?

A Yes, they are indeed as an NCO.

Q I show you what's been marked as Plaintiff's Exhibit 93 for identification.

A Yes. TM's 5-331A, B, C and E. These are utilization of construction equipment manuals, and by and large they get away from the operation side of equipment and go into the utilization, how to tandem equipment, how to turn around, how to shorten your time, and it is the techniques you get into here. This is what the NCO's get.

MR. DEVORKIN: I offer Plaintiff's Exhibit 93, your Honor.

MR. BRADY: No objection.

THE COURT: Received.

(Plaintiff's Exhibit 93 was received in evidence.)

xx Q Major Williams, I show you what's been marked as Plaintiff's Exhibit 94 for identification and ask you if you recognize it.

A Yes. Yes. This is an extract of Army Regulation 611-201.

Q What is the purpose of those regulations?

A The title of it is "Enlisted Career Management Field and Military Occupational Specialties," the same term I used before.

The purpose is to identify duties of all Army elisted men. In this case, this only locks in on engineer proponent MOS's.

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Q Did you have anything to do with preparing that document?

A Yes. The job descriptions that are in here we write at the engineering schools. We write the descriptions and duty shown in the book.

It is a department of Army regulation but the engineers school writes the engineer part, the ordnance school writes the ordnance part, and this is just part of our job.

Q Is this a current document?

A This one is current, yes. It is being changed presently so it will be changed within the next two or three years probably.

Q Is it similar to the descriptions of duties that existed in 1970, 1968, 1966?

A Yes, it is very similar. There will be some word changes, we take out some words. We have had different people at the top and they have different ways of saying things and some of those are that kind of change that gets into these regulations.

But by and large the duties that were in the regulations some six or seven years ago are the same as what appears in here and will indeed appear in the next edition.

Q Is it fair to say that that sets forth the Army's view of various operators' duties?

A It does, yes, exactly.

MR. DEVORKIN: I offer Plaintiff's Exhibit 94.

MR. BRADY: Your Honor, I am just going to object at this point to this type of material coming into the record. I don't think it is relevant at all.

THE COURT: I will have to determine whether it is relevant. I will receive them.

xx (Plaintiff's Exhibit 94 for identification received in evidence.)

Q I show you what has been previously marked as Plaintiff's Exhibit 95 for identification, Major Williams. I ask you if you recognize it?

A Yes. This is a booklet of several of what the Army calls Army subject schedules. It is written and prepared, designed completely by my office.

Q What is an Army subject schedule?

A An Army subject schedule is the result really of the last document which we just saw, the 6-11-201 which sets forth the Army's expectations of the individuals. It gives his general duties in broad terms.

This publication is pointed to the training center that conducts the training and tells them several things.

But the most important are exactly what the individual is supposed to do, the task list of his responsibilities taken from the last document. It is an expansion of those duties.

Q Where does the task list appear ?

A It is in the rear two or three pages of the publication.

Q What is a task list?

A It is a complete listing of things that the grader operator, in this case, is supposed to be able to do, record maintenance information on the proper forms, lubricate the grader, perform basic operations in the techniques and maneuvres, start and stop the engine, construct V-type ditches, construct flat-bottom ditches, cut low and high banks, slope low and high banks, that type of description taken from the general description that is in the AR, and that is included for each MOS.

Q Let me just ask you how the task list is actually prepared.

A Well, we go back to the Army mission. We look down the road and determine what are the types of things that people are going to be doing for the Army in the Corps of Engineers now and in five years from now. We look ahead at least that far.

We go to the job sites and decide whether those types of skills are indeed what we can use right now and whether they will apply in the future.

If we validate those skills by looking at the people performing the work, by talking with their ENCO's out there and one will say, "This isn't required any more because we don't do that kind of work in the Army, so we validate the task before it gets in this position here.

Q Are those tasks outlined for the various job categories there similar or dissimilar from the task that would have been involved in those job categories three or four or six or ten years?

A Similar and in lots of cases identical. In most cases identical.

Q You said that the role of those manuals are to outline the training that the Army gives?

A The outline of the training and that really is addressed to the training center, such as Fort Leonard Wood, Missouri. We tell the people actually doing the teaching how to teach the task that we have in the back of the book.

We not only tell them what the guy is supposed to know but show a break-out of hours, subjects, how many hours you are supposed to spend on each subject, each operation, to impart these particular tasks to the in-

dividual. These particular skills to the individual, and the kind of thing is the performance test which is a measure of his capabilities to do the task when he finishes the course.

MR. DEVORKIN: I offer Plaintiff's Exhibit 95.

THE COURT: Received in evidence.

xx (Plaintiff's Exhibit 95 received in evidence.)

Q Major Williams, I show you five documents which altogether constitute Plaintiff's Exhibit 96 for identification.

I ask you if you recognize those?

A Yes, indeed. These are interservice, Army, Navy, Air Force, Marine Corps, versions of the documents are in the gray notebook.

In other words, the green notebook represents an Army training program. These documents represent interservice programs, programs which will be participated in by all services, whether at one location or several locations.

These particular ones are the crawler tractor, the dozer, the wheel tractor, the scraper, the motorized grader, the 5-ton truck and crane shovel. My office wrote these. I supervised the work group that prepared these documents.

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The representatives from the Air Force, two representatives of the Air Force, one from the Marine Corps, two from the Navy and two from the Army, drew up these documents.

Q Are those comparable and similar to the Army document, Plaintiff's Exhibit 95 in evidence?

A Yes, they are, except in this case they meet all service requirements.

MR. DEVORKIN: I offer Plaintiff's Exhibit 96, your Honor.

THE COURT: Received in evidence.

xx (Plaintiff's Exhibit 96 received in evidence.)

Q Major Williams, I show you what has been marked as Plaintiff's Exhibit 97 for identification, and ask you if you have ever seen it before?

A Yes. This is a copy of the International Union's Apprenticeship and Training Committee For Operating Engineers, the training program schedule for operating engineers.

Q Where have you seen it before?

A In our office and as part of our regular work we are interested in any literature published by any source which pertains to operating engineers, which pertains to

soils or drafting or surveying or whatever the field is.

In our search for this type of material we try not to overlook any sources and we knocked on many doors. We knocked on the door of the International Union and received this information from them.

Q Which International Union?

A International Union of Operating Engineers.

Q That is where you obtained this document?

A Yes.

MR. DEVORKIN: I offer Plaintiff's Exhibit 97 for identification.

MR. KENNEDY: Objection, no proper foundation.

MR. BRADY: Same objection.

MR. KENNEDY: This is a document from the International Union and he is putting it in through the wrong witness. This man has not testified that they utilize the training program or do anything else.

MR. BRADY: Nor has he had anything to do with the compilation of it.

MR. DEVORKIN: He testified that they used it, but if they are denying that that is a document of the International Union, I will call the president to say that is an original document. Is that what you want me to do?

MR. BRADY: It is up to you.

MR. DEVORKIN: May I see the document?

THE COURT: We are talking about something different here.

MR. DEVORKIN: I am not saying this is the Army's position, but the International Union's position.

THE COURT: If it is to be binding on the International you have to put somebody on from the International. I might be charging them with the expense of getting the union official here to identify it.

MR. DEVORKIN: It is copyrighted by the International Union of Operating Engineers, right on the front page.

THE COURT: He won't admit that that is a union document.

MR. KENNEDY: That is not what he is asking. He is not offering it for that purpose at all.

THE COURT: Get him and I will charge the union with the expense of bringing him here.

Q Who did you receive this document from?

A I received it from Major Stevenson, who works for me, and he received it from -- there is a chain -- from my predecessor who was -- that is what I told you, I inherited it, and he received it from my predecessor and my predecessor

received it from the National Headquarters.

Q Of the International Union of Operating Engineers?

A Yes.

Q What have you used this document for, if anything?

A Yes, in developing our apprenticeship standards. We try to develop a standard, we used this document and, as I say, we try not to overlook any source and we used this as a kind of guide as to how we are going to write our apprenticeship standards.

MR. DEVORKIN: I renew the offer.

MR. KENNEDY: Same objection. I am not denying this came from the International at all and the witness has already testified that he has observed this document and utilized it from time to time, and that is the extent of the testimony. But the document is not being offered for that reason.

THE COUPT: What are you offering it for?

MR. DEVORKIN: It speaks for itself.

MR. KENNEDY: No, no. Your Honor, this document is being offered by the government to indicate that this is the be-all and end-all of the apprenticeship programs and the training programs and everything else. I have

a right to examine somebody from the International and say, sir, does this include training for the New York Area and is there anything in that publication to show how people should be trained for the New York Area. That is my problem, your Honor.

I am not trying to be obstreperous. I will concede for the record that this is published by the International Union of Operating Engineers, period.

MR. DEVORKIN: Your Honor, I don't want to engage in colloquy with Mr. Kennedy, but if he wants to concede it is not used in the New York Area, I couldn't be more delighted.

All I am saying is that it is a publication that the International puts out.

THE COURT: It will be received.

MR. KENNEDY: You can't get it in through this witness.

THE COURT: You can put in all the evidence you want to show that it is not applicable in New York.

MR. KENNEDY: That is not my burden, that is the government's burden, to bring up the proper witness to get the document in unless we have changed the rules of evidence completely.

If you are thinking we are simply being obstreper-

ous, we are not. This is the wrong witness. He is putting him up here to say, sir, do you vouchsafe for its contents and everything else and how can I cross-examine the witness as to how it was used and so on. Now he is saying he just wants to offer it through this witness, and if I want to bring anybody from the International it is my burden. It is not. It is his.

THE COURT: You already conceded it was issued by the International and now you are saying it can be limited. That is part of your defense.

MR.KENNEDY: It is not, your Honor. It is not part of my defense.

THE COURT: It is received in evidence.

xx (Plaintiff's Exhibit 97 received in evidence.)

Q Do you know the percentage of blacks or Spanish surnamed individuals in the Army?

A Percentage of blacks, about 20 per cent.

Q When you have been in Fort Leonard Wood and observed the heavy equipment classes there, have you been able to determine the percentage of blacks or Spanish surnamed individuals in those classes?

A I was able to observe the number. I didn't really look at the percentage, but the classes on

equipment operations vary in size depending on the time of the year and a lot of other variables.

But we look for a small class, about 20 people, and in that 20 to 25 people, you will see a half-dozen or so blacks. If the class is smaller the number of blacks is also smaller in most cases, and this is based on my direct observation, not just of the Army but also the other services training.

Q Major Williams, do you have an opinion about whether or not a person who spent one term with the Army Engineers would be qualified to competently operate heavy equipment that you have talked about in the civilian sector?

A If he had an MOS of any one of the equipment operators' MOS's, the answer is yes.

One term is two years or three years, depending on whether the individual came in on his own or was drafted and after -- the answer is yes.

THE COURT: Would that mean operate this equipment in an urban area? You don't train them in the City, do you?

THE WITNESS: We do not train them in cities, no, sir.

I don't draw that distinction. I am imparting

certain baseline skills to the individual and that individual can do this thing when he finishes Fort Leonard Wood or whatever it is.

THE COURT: He would have to adapt it to city conditions?

THE WITNESS: Yes, he would have to adapt. I think safety is probably one of the biggest things which would worry him initially. But he gets the feel of that after a while.

Q After he finishes the formal training the Army gives him training in the field, correct?

A Training meaning performance of what he learned and, in some cases, formal training in the unit, yes, sir.

Q How difficult is it for him to adapt to the urban setting and how long would it take him on a particular piece of equipment?

MR. BRADY: Objection.

THE COURT: Have you had experience working in this area?

MR. DEVORKIN: If he knows, if he observed the urban area.

THE COURT: I will let him answer the question, but unless he had practical experience in the area I can't attach much weight to it.

MR. BRADY: That is my objection, he has no foundation to answer that question.

THE COURT: I will have to give it that weight. But he had a great deal of experience and on that basis -- you haven't had any experience actually in a city like New York?

THE WITNESS: No, sir.

THE COURT: But I will take his opinion.

Q Given your experience in training, operating, supervising, use of equipment, is there anything you know about the urban setting that would make it difficult for an Army man after one term to adapt to it as an operator?

A There is nothing that I know that would make it difficult. That is the direct answer.

There are a lot of ramifications of that. There is nothing that I have ever seen yesterday and today in the crane operation, in the clamshell loader, in the cat, that I saw that would make it difficult, put it that way, because that is what I observed. I observed those things.

Q Given your experience and training and expertise, how long would you say it would take a man to make that adaptation?

MR. BRADY: Same objection.

THE COURT: I will take it, recognizing the fact that he is speaking not from actual experience in the urban area.

However, I assume that the training that they receive in the Army would be accomplished but vary as far as underground electrical lines and other lines?

THE WITNESS: Yes, sir, that is the biggest threat, indeed.

A The biggest difficulty that I observed, I stated one of them earlier, not just here but also in other communities and D.C. and Fort Leonard Wood and wherever it was, was the fact that there are a lot of crawler equipment that the Army doesn't have. That is the first.

The second is the make and model of equipment. Makes and models in the Army don't mean very much. We would like to have everything the same but we don't.

So in fact we have different types of cranes from one unit to the next, and so my only point is that if an individual is trained with the baseline skills, that within a day, perhaps less than a day, these skills if applied on the job in an urban community, could be transferred within a day. I don't see a problem with what I have seen either here or elsewhere.

THE COURT: Why don't we take a short recess.

(Recess.)

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Q Major Williams, are there any differences that you know of in the technical skills required of an operator in the military as opposed to an operator in the civilian sector?

MR. KENNEDY: Of all equipment?

MR. DEVORKIN: Yes.

A I didn't hear that.

Q Of all heavy equipment that you are familiar with.

MR. BRADY: Your Honor, I assume, of course, that I have the same objection.

THE COURT: Yes. I mean he hasn't had any experience in the civilian field but I am permitting the question.

Q Again, major, it's the technical skills of operating as opposed to the application on a particular job site.

A I understand. Procedures are the same, so from that standpoint the technical skills are the same.

MR. BRADY: Your Honor, I will object to that. There is no basis for the testimony that he knows about any procedures in civilian life.

Q What did you mean by "procedures"?

THE COURT: What he means is that you

pull the same levers, I assume.

A Yes, sir. I am talking about whatever manipulation and coordination of the hands and eyes is necessary to either swing, lower, move dirt, load dirt, dig, slope, that type of a thing. Those types of skills again, and I am relating it solely to the construction that I have seen, not just locally here but other places, those types of skills are identical.

Q Do you know of any restrictions ever imposed upon military operators in construction work?

A From what standpoint?

Q Restrictions imposed in terms of safety or limitations in space, so forth, items they have to avoid.

A Yes. The first one that comes to mind is the crane and the overhead lines. In other words, that's part of our safety pitch to the troops as they come in, and it is a continuing thing, the safety, with overhead power lines, with pipes and lines or cables below the ground; and in some cases where you don't have that type of restriction there are combat-type restrictions.

For example, a mine field is bounding the road and you can't go but so far because you will get blown up, and so that type of restriction is there

and was there in Korea.

There are other restrictions. Working on the top of a hill cutting a road, there is but so much room that you can operate in when you are on the side of the mountain cutting through the first time.

Your surveyor has been through and marked the road and you have so much room to operate the dozer when you are making the cut after the explosives have gone and that's all you have got.

Q Now, I show you Plaintiff's Exhibits 79A through D in evidence and ask you if you have seen them before.

A Yes, I have. One group of papers is a copy of a discharge and a correction to the discharge of a Clemon Pratt, and the other set of papers is a copy of the DA Form 20, which is the enlisted record of Clemon Pratt.

Q Have you examined those papers?

A Yes, I have.

Q Now, in your opinion, would Mr. Pratt be qualified to operate heavy equipment in the civilian sector?

MR. BRADY: Objection, your Honor. No testimony he ever saw Mr. Pratt operate.

THE COURT: On the basis of the record alone can you tell us?

Q Would you go ahead and answer that?

A On the basis of the record alone, the MOS's or military occupational specialties, that the individual had with construction machine operators, which in this time frame included several items, not -- in other words, he was a multiskilled operator, not just a single skill, including the dozer, grader, scraper, probably the crane --

MR. BRADY: I will object to this line of testimony. He doesn't know how skilled he was or what he operated.

THE COURT: Overruled.

I said on the basis of this document. He is not saying that he observed this person.

A The MOS is the primary factor there. One MOS is construction machine operator. The second is a little higher skill, and this is the construction machine foreman as an NCO.

Again, the prerequisites to become an NCO as it stands right now --

THE COURT: Or at the time that he got that.

A At the time that he got that; the prerequisites

haven't changed; the schooling has, but the prerequisites to become an NCO have not changed. You broaden yourself, learn items of equipment that are different than you were brought up on and you cross fields, and a 62D40 indicates here that he attended the advanced NCO course, and in the advanced NCO you receive additional training on heavy equipment.

This period of time runs from December of '50 to March of '57, so about seven years. And in the last several months, I am not so sure how many it is exactly he was a crane operator alone. Before then he operated many items of equipment and then he topped it off by operating the crane as a special MOS.

So on the basis of the MOS and on the basis of the requirements of that MOS, the individual would have been required to operate many items of equipment that are comparable to the items that we have been discussing all along: dozer, grader, pan.

MR. DEVORKIN: I have nothing further, your Honor.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Major Williams, in the Corps of Engineers are people given special instruction on hydraulic cranes.

A No, sir.

Q They are not?

A No, sir.

Q Are they given instruction on cable cranes?

A Yes, sir.

Q And what type of cable crane?

A Twenty-ton, truck-mounted; 40-ton, crawler-mounted; 100-ton, crawler-mounted.

Q Are they given any experience on any type of long-boom cranes at all?

A Long-boom meaning over --

Q 150 feet, 200 feet.

A No, sir.

Q What work is done with the cable cranes?

A Well, let me start off with the combat work. Bridge-building is the first thing that comes to mind; lifting heavy timbers into place, excavating using the clam, loading using the clam, banking, using the shovel front, lifting bridge components, floating bridge components into place on a steel bridge, meaning steel construction.

Q Do they set steel at all?

A Steel in the sense of what you are saying, no, sir. Steel, yes. There are I-beams, but they are

part of a bridge set, yes, sir, they do that. They also do that with underground bunkers and the above-ground bunkers that have steel beams running through them. They do in fact set steel.

Q But they do not set steel in the sense that I referred to it in the construction of a multistoried building?

A No, sir.

Q Is it possible in the Corps of Engineers for a man to obtain, et's say, two years of experience in operating different types of cranes?

A Yes, sir.

Q And would that period of time, in your opinion, be sufficient to make him fairly conversant with operating the crane?

A Indeed, yes, sir.

Q Is there any reason why a man with two years' experience coming out of the Corps of Engineers couldn't take a New York City license examination and pass it?

MR. DEVORKIN: Objection. There is no foundation that Mr. Williams knows anything about the New York City license examination.

THE COURT: Then all he has to do is say so.

A Well, that's what I was going to say, sir, that I would like to know what the license consisted of. I don't know.

Q All right. If they gave you a written examination of 70 questions about how to operate various types of hoisting equipment -- cranes, hoists, things like that -- could someone with, say, two years of experience coming out of the Corps of Engineers, in your opinion, pass such a written examination?

A Some of the people could, sir.

Q Now, I believe you testified that the Army has some types of equipment that is used in civilian life but not all of them.

A That's correct, sir.

Q And there is some adjustment to be made -- forget what time it is -- is that correct, from one to another?

A That's correct, sir.

Q And there are also certain -- I am trying to think of a word that will best describe it -- I will say, for the sake of it, there is a difference, slight difference perhaps, in the safety requirements that are perhaps used under field conditions in the Army than out here on the street; would you agree with that, sir?

A Yes, sir, if you specify field conditions as a combat condition.

Q And there would be a period of time, would there not, whatever it may be, to become adjusted from one condition to another?

A I quite agree, sir, yes, sir.

Q And that at the conclusion of the period of time, say it was 100 days or 200 days or whatever it may be, of operating that piece of equipment under civilian conditions, is there any reason why he could not pass a practical examination?

A I don't see why he couldn't, sir.

MR. KENNEDY: I don't see why either, Major. Thank you very much.

I have no further questions.

CROSS EXAMINATION

BY MR. BRADY:

Q Major, you said you saw some jobs this morning, did you say?

A Yes, sir.

Q How long were you out this morning looking at jobs?

A Two hours and a half.

Q And which jobs did you see in the two and a

half hours?

A Second Avenue subway, which is basically a crane job --

Q How long were you there?

A Oh, how long? I don't know, sir. I would guess half an hour.

Q And then you saw the Battery City job?

A Yes, sir.

Q How long were you there?

A Approximately 15 minutes.

Q And you saw the Perini North River job?

A And I was there, to anticipate your question, about 20 minutes.

Q Did you see any of the tunnel work in the City of New York?

A No, sir.

Q Have you ever been down among the tunnels?

A No, sir.

Q Have you ever been down in one of the subways?

A You mean ridden the subway?

Q No, sir. Sorry. When they were constructing a new subway.

A No, sir.

Q So obviously you haven't watched operators perform under those situations?

A Not underground, sir. This subway construction was above ground that I noticed.

Q Now, I noticed that you said that your training program changes and has changed in response to -- well, I don't want to call them complaints -- but word from the field?

A Field feedback, we call it.

Q Field commanders?

A Yes, sir.

Q So in effect you are responding and changing your training because of the needs of the people who see your trainees actually perform, isn't that so?

A Not primarily. We have the prime responsibility for designing the training. The feedback that comes in from the field is just one of the many things that determines what it's going to look like in the future.

Q Well, I'll tell you, in your testimony you said in response to the field commanders that these changes were made, that's what you said on your testimony.

MR. DEVORKIN: I object as to form. He can't testify as to what he said.

MR. BRADY: I can cross examine him.

MR. DEVORKIN: I object to it. He is saying you said this.

THE COURT: Well, I believe that's correct. That's what you said, wasn't it?

THE WITNESS: May I hear what you said, sir, again.

BY MR. BRADY:

Q Yes. I said that your testimony on direct was that the changes were made, again the changes in training, in response to word received from the field commanders, commanders in the field.

THE COURT: Feedback, yes.

A Yes, sir, but that was only part of the reply. That was part of it and again I say that's one of the many things and that's in my prior testimony.

Q But you would give great weight, would you not, to what the field commander told you?

A Sir, that is one that is hard to say because --

Q You don't know if you would give great weight to it?

A Yes, sir. But, you see, you can give it weight and still not change it.

Q But you have changed it, haven't you?

A Yes, sir, we have changed it.

Q And that's the changes they wanted, wasn't it?

A No, sir.

Q They wanted more changes, is that it?

A Well, the field commanders by and large are commanders, but the people who design the training have some skills that are not command skills, they are instructional technologists who can take a course apart and come up with the answers.

The field doesn't always like what we do is what I am telling you.

Q You are saying the field commanders are still dissatisfied?

A No, sir, they are not.

Q I thought you said they didn't get all the things they wanted?

A The field commanders have requested about, since I have been there in the last year, two changes. The rest of them are our innovations.

Q Did they get the two changes?

A Fifty per cent; they got one, yes, sir.

Q They still want the other change?

A No, sir. They have gone over to our way of

thinking.

Q Now, when you are training the people your thought is to supply these field commanders, is it not?

A Well, that's -- in some iterative, down the line, yes, sir. But primarily our thought is the Army's building and constructions trades mission. We don't really look at the commanders' desires as we do the Army's requirements.

Q What do you think the first function in the Army is?

A In what, sir?

Q The first function of the Army. What are you all leading up to in the end?

A I am not sure I understand.

Q What's the purpose of the United States Army?

THE COURT: That's a pretty broad question. What's the purpose of the Engineering Corps might be.

A That one is pretty easy but the Army --

Q What's the purpose of the Engineering Corps?

A To support the other branches of the service with building and construction trades, with repair and construction of dams or civil works projects, as we call them.

Q Is that work mainly done in the field, sir?

A In the field, meaning outside of a school environment, yes, sir.

Q And is that work done mainly off base?

A Let me tell you about some places I know about, and that's really all I can say.

At Fort Leonard Wood, Missouri it is mainly done on base. In Grafoenwehr, Germany, it's normally done on base.

In Fort Hood, Texas, it's normally done on base.

Now, there is a civil work side, which is a contracting side --

Q Yes. What do the contractors do?

A Well, this is a regulator contractor, which the Office of the Chief of Engineers has field officers who contract or through a contracting officer for different construction projects.

Q Let me ask you this: If there are new roads to be built on your bases, aren't those given to outside contractors?

A I don't know, sir. I will say that I was at Fort Leonard Wood we put in a quarter of a mile of road that I can remember. I would say that the big jobs are

given, but we had some problems there that we had to sort out internally, between the trades, the unions, that would not allow the Army to do those things.

Q But the big jobs were given to outside contractors?

A At Fort Leonard Wood Missouri the ones that I recall were. The other places that I have been stationed, by and large they were not done by military; rather contractors, civilian contractors.

Q Now, when you saw the Battery Park job today did you see the rock-crushing operation?

A No, sir.

Q Is there anything like that in the Army, do you know?

A Yes, sir, there is, indeed.

Q And your estimates, Major, about operators, how long it takes to qualify an operator, necessarily doesn't that depend upon the man himself?

A Oh, absolutely, sir.

Q Haven't you seen, Major, some people that wanted to be engineers and spent time in engineering and it just took them an awful longer period of time than it takes someone else to learn?

A Yes, sir, that is absolutely correct.

Q Now, in your training, say the MOS of Mr. Clemon Pratt, does that include the operation of front-end loaders and dozers and scrapers?

A Yes, sir.

Q Would that man know how to operate a backhoe?

A As an attachment to a crane, he might. But as a commercial backhoe scoop loader like the John Deere, he might, but the Army didn't train him because the Army doesn't have them.

Q The Army doesn't have them?

A We are buying them now. Here we didn't have them.

Q Now, in going around on the various jobs, Major, either in New York or Washington, D.C., have you ever stopped and talked to the contractors who are running the jobs?

A Yes, in D.C., but not here.

Q Have you ever talked to them about the requirements of operators?

A No, sir.

Q And I take it you have never tried to supply a contractor with operating engineers?

A That's correct, sir.

Q Have you ever visited the Local 15, Inter-

national Union of Operating Engineers, training school?

A No, sir.

Q In so far as your familiarity with New York construction is concerned, are the stops that you made today the extent of your familiarity with that construction?

A And yesterday afternoon, sir.

Q How long did you go yesterday, sir?

A Total time out was about two hours, but, again, a lot of the time was in transit, so at each site, maybe a half an hour to 15 minutes.

Q Just observing?

A Just looking at the functions that were going on.

Q Service people, are they ever required to operate heavy construction equipment on a street with heavy traffic passing by?

A Yes, sir.

Q What conditions would those be?

A Well, the one that I remember specifically was in Korea, putting in a blacktop. We put in about -- well, we were responsible for 99 miles of road in Korea. A part of the road was being blacktopped and the traffic in Korea is ox carts andthey were back to back, and it's

cars and cabs and it's pretty busy.

Q Is that the only incident you can recall?

A The only other one was the Fort Leonard Wood project where the post traffic was on the road. That's the only other incident.

MR. BRADY: Thank you.

No further questions.

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REDIRECT EXAMINATION

BY MR. DEVORKIN:

Q How many men does the Corps of Engineers train as heavy equipment operators?

A In round numbers, 3300.

Q Have you ever discussed Army Corps of Engineers training with the International Union of Operating Engineers?

MR. BRADY: Objection, improper redirect examination.

MR. DEVORKIN: Mr. Brady opened this door because he asked Major Williams about contacts with the International Union Training Program.

MR. BRADY: That is not correct. I mentioned the Local 15 School, not the International.

MR. DEVORKIN: That wasn't thequestion.

THE COURT: You can cross-examine him on that.

Q Have you discussed the United States Army Corps of Engineers Training Programs with the International Union of Operating Engineers?

A Yes, I have.

Q Do you know whether or not the Director of Training for the International Union of Operating Engineers has ever been to the Army Corps of Engineers Training

Facility?

A He told me that he had been. I had not seen him there.

Q Which facility?

A Fort Leonard Wood, Missouri.

Q Do you know when he went there?

A I think it was early 1973.

Q Do you know his name?

A Mr. Kinsey.

Q For what purposes did you have this discussion with Mr. Kimsey?

A Basically for the reason I indicatedearlier. Just from the standpoint of obtaining as much knowledge as I could about other operating programs, operating engineer programs, which he provided to me.

In addition to that -- let me get back to your question -- Mr. Kinsey simply wanted to observe, I think that was your question.

Q The question was, for what purposes did you have this discussion with Mr. Kinsey?

THE COURT: I think he answered that.

Q Was there another purpose?

A In addition, the Army was trying to establish an apprenticeship program of its own and we went to people

who were doing like skills, who might give us some help along these lines.

Q Did you at any time ever solicit Mr. Kimsey's comments about the Corps of Engineers Training?

A Solicit, I would say that during the course of conversation we had exchanged information about the Corps of Engineers Training.

Actually where I asked him about it one way or the other, I am not sure that I have ever done that.

Q Did he say anything one way or the other about the training he observed at Fort Leonard Wood?

A To the best of my knowledge, and these are conversations that we held over a period of the last 18, 19 months, yes. And the conversations went something like, "Your skills and standards are good," and in some cases he asked for copies of our standards, and I don't know the purpose that he plans to use them, but I know he thinks enough that he asked for copies of it.

I have an impression of what he is doing with it. I don't know.

MR. DEVORKIN: I have nothing further.

MR. BRADY: Nothing further.

THE COURT: You are excused. Thank you, Major.

(Witness excused.)

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MR. DEVORKIN: At this time I would just make an offer of some exhibits and then our direct case is finished.

If your Honor please, Exhibit 98 for identification is a Local 15, 15-A, 15-B, 15-C and 15-D membership list as of August 7, 1972, provided to me by Mr.Brady.

It contains the member's name, his Social Security number, address, telephone, the month and year of initiation, the branch of the union to which he belongs and some other information which I have no interest in.

THE COURT: Do you have a more recent list?

MR. DEVORKIN: For my purpose this is sufficient.

THE COURT: You are at liberty to bring it up to date.

MR. BRADY: Thank you.

xx (Plaintiff's Exhibit 98 for identification received in evidence.)

MR. DEVORKIN: Plaintiff's Exhibit 99, your Honor, is a list of Local 15, 15-A, 15-B, 15-C and 15-D of members who, as of July 5, 1974, were known to the union to be either black or Spanish surnamed, and it has their local branch, union number, name, address and date of initiation.

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I offer that which was also supplied to me by Mr. Brady.

THE COURT: Received.

xx (Plaintiff's Exhibit 99 for identification received in evidence.)

MR. DEVORKIN: In addition, your Honor, you will recall that Plaintiff's Exhibit 39 in evidence was plaintiff's questions and interrogatories to Local 14 and answers thereto, Nos. 6, 7 and 17.

I would now offer questions in the interrogatories to Local 14, Nos. 10, 11, 14, 15, 27, 35, 36, 37, 43 and the answers respectively. I will make that as part of Exhibit 39.

THE COURT: All right.

MR. DEVORKIN: Likewise, with respect to Exhibit 38, which contains questions and answers from interrogatories to Local 15, specifically questions and answers 6, 7 and 17, I would now offer questions and answers respectively of Nos. 10, 11, 14, 27, 35, 36 and 43. Again, I will incorporate that as part of Plaintiff's Exhibit 38.

THE COURT: All right.

MR. DEVORKIN: I would like to substitute Xerox copies of those pages of the original interrogatories.

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THE COURT: Very well. Then you can hand them up.

(Discussion off the record.)

MR. DEVORKIN: We are through with our direct case.

MR. KENNEDY: Your Honor, I would like at least at this time to make a motion on behalf of the defendant Local 14 to dismiss the government's charges on the grounds that they have failed to prove the very things against Local 14 they have alleged both in their complaint and also as set forth in the pretrial order.

THE COURT: I will deny it. I can't rule on it now. They certainly made out sufficiently as to 15 and 14 as well, I believe.

MR. KENNEDY: I ask the Assistant United States Attorney a question? He has introduced into evidence Exhibit 91, which was part of the stipulation that the government and Local 14 entered into.

In observing page 62 of that exhibit, there are some notations at the bottom and I think they are incorrect.

MR. DEVORKIN: We have simply corrected them on the original.

THE COURT: Let me say these exhibits are received subject to such corrections as may be indicated.

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They are not in as rocks of granite.

MR. KENNEDY: I will take it up with Mr. Devorkin and perhaps we can stipulate to some of the errors on the thing.

THE COURT: All right, fine.

Mr. Brady, I assume you make the same motion and the ruling is the same.

MR. BRADY: That is correct, your Honor. Thank you.

THE COURT: Very well, we will adjourn now until 10 o'clock tomorrow.

(Adjourned to October 3, 1974, at 10.00 A.M.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Samuel Hibbert	1594	1613		
James Haughton	1626	1635	1642	
Gilbert Banks	1643	1655		
Rose Glatter	1672	1679		
Anita Kramer	1684	1694		
Lonnie Williams	1702	1751	1766	

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
91, 91-A through 91-C		1694
93		1731
94		1733
95		1736
96		1737
97		1742
98		1769
99		1770
Defendant Local 14		
A	1699	

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
vs. 72 Civ. 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants.

Trial resumed.

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MR. KENNEDY: Local 14 would like to call Mr. Fulcher.

W I L L I A M E. F U L C H E R, called as a witness on behalf of Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Fulcher, will you please keep your voice up so that the Court and counsel can hear you?

A I will.

Q Mr. Fulcher, how old are you?

A 62 years old.

Q Are you married?

A Yes,I am.

Q Do you have any children?

A Yes, one.

Q What age?

A 14.

Q Are you a member of a union?

A Yes.

Q What union?

A Local 14, Operating Engineers, New York City.

Q Do you recall when you first became a member of Local 14?

A 1954.

Q Are you licensed by the City of New York?

A I am.

Q When did you first obtain your City license?

A 1947.

Q When and where did you first obtain your experience on heavy equipment?

A Exactly, approximately about 1936, 1937 or 1935, in that area.

Q What type of equipment was that?

A Hoisting equipment, steam equipment; different types of construction equipment around construction yards at the time.

Q Did any of these pieces of equipment require licenses at that time?

A At the time, yes.

Q Where did you operate the equipment?

A In the yard at the time.

Q Just private properties?

A Private property.

Q Where?

A The names or --

Q Yes.

A McDermott, P.T. McDermott Corporation in Brooklyn, Empire Boulevard and Utica Avenue. He had lots of steam equipment. It was popular. Gas hadn't come in. And Piconi Bros. in Brooklyn, gas equipment, a truck crane at the time in the sandpit. That was private property. At the time I was working on a permit out of Local 14.

Q 14?

A At the time, yes.

Q The equipment that you operated in the 1935-1936 area for McDermott and Piconi, how long did you work for those companies?

A McDermott about two years; Piconi about three or four years prior to getting into the Army.

Q That would take us really from some time approximately 1936 to the early 1940's?

A Approximately.

Q Could you tell us the types of equipment that you worked on?

A Mostly hoisting equipment. At the time there

was short booms, it wasn't any long ones like you have today but it was digging equipment, dozers, shovels, things like that.

Q How did you learn to operate those pieces of equipment?

A Members of the -- different guys around the yard would show it to me in case I was to move something, you know, here is how you do it. Because it wouldn't interfere with anything they were doing.

Q Were the people members of a union?

A Yes.

Q What union?

A 14.

Q How long did it take you to learn how to operate these various types of equipment?

A It is a hard thing, maybe about 10 or 12 years, 14 years. You still don't get it all in that time. You still learn something every day.

Q You stated, I believe, that you were also during that period of time working on permit from Local 14, is that correct?

A Right.

Q Could you tell us when for the first time you went to Local 14?

A 1954. I'll have to go back a little further to explain this.

I was in Local 15 prior to getting into 14.

Q Right.

A That's my original venture into the union. That was in 1950 or '49, approximately -- in there. I don't exactly remember right on the head but I got in 15 and that's the apprentice local. I wanted to get a little more experience.

Q Did you work on permit out of Local 14 at any time between 1936 and 1942?

A No. I wasn't here in '42. I was getting in the Army in '39. Well, I worked on permit prior to '39.

Q Prior to '39?

A Prior to '39, before --

Q Could you tell us when for the first time you went to Local 14, what period, in 1936 to '39?

A 1951 I worked there on permit in 14, out of Local 15 on account of a license I had.

Q When did you go in the service?

A 1939.

Q And how long did you remain in the service?

A Until 1945.

Q Did you operate any heavy equipment there, sir?

A I did.

Q What types?

A All digging equipment, mostly, because the Army don't have anything like that. Over 30, 35, 40 feet tops.

Q You are talking about the length of the boom?

A Length of the boom.

Q What branch of the service were you in?

A Quartermaster, Service Company.

Q Was it your duty while you were in the service to operate heavy equipment?

A Not necessarily; just in emergencies. Miscellaneous times. You know, there was no particular area where you had any particular designated duties. I mean during the war, if there was a crane around and you could run it, you ran it. Or if there was any loading or ship unloading, you had to do it; that's all there was

to it.

Q There came a time when you were discharged from the Army in 1945?

A Right.

Q What did you do then, sir?

A I went to work, went back to work for Piccone Bros. in Brooklyn, again running the same Universal truck crane at the time.

Q And how long did you work for Piccone Bros.?

A After the war, after 1945?

Q Yes.

A About a year.

Q And then what did you do, sir?

A I went to work driving a truck for Charles F. Vaccarus, Inc. in Brooklyn, New York.

Q That was a contracting firm, was it?

A Yes, general contracting.

Q How long did you work for Vaccarus?

A Oh, about three years, I imagine; two and a half to three years.

Q Now, at any time during the period '45 to '48 did you have any contact at all with either Local 14 or Local 15?

A Yes, sir, I did.

Q Would you tell us what that connection was?

A I was working with Charles F. Vaccarus at the time and, I don't know, things got a little slow and I went over to the union office, the union hiring hall.

Q Which hall, sir?

A That was on 15th Street in Manhattan at the time.

Q What union?

A Local 15 and 14 were combined in that same building, and -- they were at the time -- and I went over and to find out if I could go to work, any jobs were open. Asked me if I could run it, and I said yes.

Q Who asked you, sir?

A Party by the name of Tom Maguire.

Q What union was he affiliated with?

A 15. Local 15.

Q How long had you been in the hall when you had these conversations with Mr. Maguire?

A About 35 minutes.

Q What happened then, sir?

A Asked me what I could do, what my capabilities were, and I reminded him I had worked on permit prior to the war, and he remembered. In fact, the same busi-

ness agent was there at the time and he sent me on the job up in the Bronx, Pennyfield Avenue, on a sewer job, DiBlasio & Sons, sewer job.

Q What kind of equipment were you operating?

A A P & H, about a 40-, 50-ton machine, at the time.

Q And how long did that job last?

A About 13 months.

Q When that job ended did you return to the hall?

A No. I applied for membership in Local 15 during the time I was working for Di Blasio.

Q When did you apply for membership in Local 15?

A I think it was '50.

Q '50?

A Approximately around there.

Q So you had been working on permit --

A Prior to that.

Q -- out of Local 15 for how long, sir?

A I guess about six or seven months, I guess.

Q Six or seven months?

A At the time.

Q Did you ask to become a member of Local 15?

A I did.

Q Who did you ask, sir?

A Thomas Maguire.

Q What did he say to you, sir?

A He mentioned that I had a license, that I should. He suggested that I, instead of getting into 15, I should try for 14. I told him I didn't like the idea at the time because on account of the inexperience of the large equipment that I know I would in contact with. So they accepted it.

Q At that time did you have a city license, sir?

A I did.

Q When did you obtain it? I am sorry. I forgot. What year did you obtain the city license?

A '46, I think.

Q I don't mean to digress --

A That's all right.

Q What were the circumstances of you applying for a license?

A I was working for Piccone Bros. at the time, and in reference to it there might be a possible accident, the danger of operating the equipment and the possibility of a suit, a case, something in that category.

I think the city required it and that rather than endanger the boss or having the trouble, I applied for the license, for the test.

Q How did you prepare for the examination?

A Home study and information from other men in 14.

Q And how long did you study for the examination?

A Couple of months.

Q Did you take a written examination?

A I did.

Q Do you remember where you took it?

A Just a moment. I think it was in the Municipal Building, if I am not mistaken. I think.

Q All right. What kind of an examination was it? What kind of questions did they ask you?

A I can give you -- testing, weight of cables; diameter of cables; according to the size of the cable, how much weight a cable would lift; strength of booms; angles of lifting; size and capacity of machines; strength of engines, horsepower; some electrical questions in reference to Ohm's law, miscellaneous.

Q Based on your prior experience did you find the examination difficult?

A Not too much.

Q I take it that you passed the examination?

A I did.

Q Was there a practical examination?

A There was.

Q Do you remember where that was administered to you?

A I do. Over at Queens asphalt plant. That's in the Borough of Queens. That's the Department of Highways asphalt plant, I think.

Q Do you remember who administered the test to you?

A No, I don't. That's quite a while ago.

Q Can you recall what the test consisted of?

A Yes, I can do that. They gave me a test on bulldozer. Not actually operating the dozer; what kind of an engine it was, what stroke the engine was, two or four-stroke cycle; an actual test on a digging crane, which was a Lima, I think, at the time; rehandling bucket, pick up a bucket of sand, swing it around, open it, close it, come put it back down again; and a few electrical, practical electrical problems.

Q Now, getting back to your conversation with Mr. Maguire, did you fill out an application form for admission to 15?

A I did.

Q And could you state again what year that was?

A 1950, I think.

Q And did you finally receive a book from Local 15.

A I did.

Q Do you recall when, sir?

A What's that?

Q What year did you receive it in?

A The same year, about two weeks later, week and a half later.

Q Did you from time in 1950 or '51 shape the hall or were you steadily employed?

A I think I shaped the hall about three times.

Q During that period of time?

A During that time.

Q Could you tell us what your experiences were when you shaped the hall, Mr. Fulcher?

A Sometimes work was good, walk right in, walk right out.

Sometimes it's a little slow, you might be around a day, day and a half. Might lose a day and a half.

Q Were working conditions pretty good in the industry then?

A For the first two years, '51, '52; around 1953 it slowed up considerably, and there was a lapse in work, I mean which was understandable. There was no guarantee of work, no guarantee of work at all.

T3

Q Now, who did you work for in 1951?

A It was DeBlasio, run into 1951, January or February.

I left there -- it is going back -- I think I went back to work for Charles Varchis, Staten Island, Richmond Terrace.

Q What kind of equipment were you working on?

A Northwest Crane.

Q How long did you remain a member of Local 15?

A About three years.

Q Did you make application to Local 14?

A I did.

Q Did you have any conversations with anybody in Local 14 at that time?

A Prior to that?

Q Yes, sir.

A Prior to that, yes, I inquired how the work was, whether it was more advantageous to me to be in 14 or 15.

I tried to tell myself really more than anything did I know enough to get in 14.

I was finally convinced by a couple of men to transfer.

Q Do you recall who you had these conversations with, Mr. Fulcher?

A At the time I was apprentice to Bill Wade, I think he is a business agent now, and a few other engineers -- there were so many of them; Wade, a guy named Nolan.

Q Thomas Nolan?

A The old Mr. Nolan,not the young one.

Q When you say apprentice to Mr. Wade, what do you mean?

A I was oiling for him, taking care of the machine he was running, greasing, oiling it.

Q Did Mr.Wade permit you to operate the equipment?

A Yes. That is the man that suggested me transferring because I was off -- he would step off a while and I would operate. I was an apprentice with him and he would step off because he was sitting there all day.

Q Mr. Fulcher, I take it these conversations with Mr. Wade at that time in working conditions, whether you should transfer from 15 to 14?

A In that category, yes.

Q Did you put in an application to Local 14?

A I did.

Q Did you need any sponsor, sir?

A No, I didn't.

Q It was a form of a transfer card?

A Exactly what it was.

Q How soon after you put in your application did you receive your book in 14?

A About two weeks; administrative purposes only.

Q Now, when you transferred into 14, what was the first job that you had? It would be 1954, I guess.

A I think it was DeLee Construction, working on a gas pipeline, I think.

Q That fixes the employer. Can I take you back a little bit? This is my fault.

Did you appear before any committees in Local 14 before you received your book?

A No.

Q You did not?

A Not in 14, because the information in my transfer was my ability in reference to licenses and miscellaneous. I imagine if you get to Local 14 now just without getting into 15, you have to go before an examining board to find out whether you have a license, whether you are 21 years old, No. 2, and how capable you are of running the equipment and where you got your experience. It is a little dangerous out there today.

Q Are you familiar with 14-B?

A A little.

Q If a man wanted to transfer from 14-B into 14,

would he need a sponsor?

A Not necessarily.

Q When you started to work in 14's jurisdiction in 1954, what type of equipment were you operating?

A 1954?

Q Yes.

A It was a Bucyrus Erie truck crane at the time. I think a 40-foot boom, digging bucket, a yard machine.

Q Do you remember what the rate of pay was?

A In those days?

Q Yes, sir.

A Seven or eight dollars an hour, I guess.

Q Was that the same pay scale that was applicable to whites in Local 14?

A Of course. There was no difference in that. The equipment and pay scale corresponds nomatter who is running it.

Q What about fringe benefits, did the blacks get the same thing?

A Same thing, exactly.

Q Were there blacks in Local 14 at the time you became a member?

A Yes.

Q Do you know of your own knowledge whether the

admission procedures for membership were the same in 1954 for blacks as it was for whites?

A Of course it was, the same thing.

Q What types of equipment have you operated since 1954?

A All of them.

Q Everything?

A All of them.

Q Do you operate cranes from time to time?

A Yes.

Q Are there oilers on those cranes?

A Every one of them.

Q Those oilers belong to what union?

A Local 15.

Q Do Local 15 oilers talk to you about operating equipment?

A Sure.

Q Give an example, we weren't there, Mr. Fulcher.

A Let us assume I have an oiler. I appear on the job, I have never seen the man before, a Local 15 man, and I ask for identification and we have a little talk, introduce ourselves.

I ask him if he has any experience on the machine I am operating or if it is new to me I will ask if he has

any experience and he will teach me a few things, you can always learn a little bit. You exchange experiences, get to know each other pretty well if the job lasts any length of time.

Sometimes they request can they operate. Why not? No matter who it is, go ahead, try it, while I am standing by. You are not supposed to leave him there on his own.

Q Have you worked with black oilers as well as white?

A I have.

Q Do you ever encourage them to become members of Local 14?

A I do.

Q Have any of them become members of Local 14?

A A couple of them.

Q Black or white?

A Black and white. Some are reluctant to leave, too.

Q Why is that?

A They are not sure of the experience, they figure they need a little more time, something like that. Some of them never transfer.

Q Have you been in the Local 14 hiring hallat any

time between 1954 and now?

A Yes.

Q Would you tell us what the procedures are when you went to the hiring hall?

A Walk in the hiring hall, walk in the office and tell them you are out of work.

Q Who would you tell this to?

A Your business agent, put in your name, and they know who you are and what you can do and if they think that you are capable of operating equipment, or if there isn't a job, send you out as soon as a job comes in.

Q Have you ever obtained work in any other manner?

A Of course.

Q How?

A Call up a boss I worked for, ask him if he needs anybody. If he needs me, come on in.

Q Does the union object to you calling up employers?

A Not at all.

Q When you have gone to the hiring hall from time to time during the period 1954 to the present time, were there blacks in the 14 hiring hall?

A Once or twice.

Q Did you have occasion to discuss jobs with those

A Not too much. They were there a short time but sometimes they discussed who is working, who wasn't, where have you been working. It is like a meeting place. You discuss old stuff from years ago.

Q Mr. Fulcher, during that period of time is there any difference in the way a black is treated from a white as far as sending him out for a job?

A Since I have been in this business, in this particular Local 14 where I am now, I haven't seen any discrepancies and I think the business has been good to all the blacks in the business. I don't think anybody is crying about anything.

Q Let me ask you, what about overtime jobs? Do whites get more overtime than blacks do?

A Not necessarily, because you don't even know what -- if you get sent out on a job you don't know whether you are going to have overtime or not unless it is a concrete job which is really a leg beating, which means a lot of work.

Q Is there anything that the business agent can do in Local 14 to give better jobs to some people than others?

A I think he could in a way if he went out and possibly sounded a contractor out, how long is it going to last. But the contractor doesn't even know sometimes; weather conditions, whether it is cold or warm, you get a

cold winter,possibly in the spring you have to work over-time to make up the time you lost in the winter. It is a pretty hard thing for anybody to pick a thing like that.

Q As far as your experience is concerned, have you detected any type of racial preference in 14?

A No, not at all. Been good to me as far as I am concerned.

Q Have you been a master mechanic?

A I have.

Q How many jobs?

A One, for Gull Contracting Company in Lawrence Street, Flushing.

Q How long did that last?

A Almost two years.

Q Would you tell us what the duties of a master mechanic are?

A A master mechanic is a supervisor of construction equipment on a construction job. He is the man that designates equipment to different parts of the job, sees it is kept in repair, sees that the men are doing the job properly and a go-between between the boss and the union.

Q Is there any extra pay given a master mechanic?

A Yes, it runs a little more.

Q How much more, do you recall?

A I think he gets 60 cents or 70 cents an hour more than the highest paid man on the job; something like that, if I remember correctly.

Q How did you get the job as master mechanic?

A I shaped the hall one morning and there was nobody in there -- there was two or three men in there. A party by the name of Mr. B oderick said --

Q A delegate?

A Yes,business agent.

Q Local 14?

A Right. He said, "I have a job for you." I asked him where and he told me. I met him on the job, on Grand Central Parkway at the time and that is how it worked out.

Q Have you requested to be a master mechanic on other jobs?

A No, not at all, it is not too nice, it is a real headache.

Q Why is that?

A Well, you got a lot of trouble with bosses, with men, and sometimes you got to be a real diplomat to be one.

Q Do you have any relatives in the union at all?

A No.

Q Do you attend meetings from time to time?

A Quite frequently.

Q Is there any difference in the procedures for voting between blacks and whites?

A Not at all. Everybody votes the same time and same place.

Q Have there ever been any black business agents to your knowledge?

A Not that I know of.

Q Is there anything to prevent you from running for business agent?

A Not at all. I was thinking about it the other day.

Q Are the blacks at the meetings given an opportunity to address the Chair and address the members?

A Any time they choose during the meeting. In other words, during parliamentary procedure they can do anything they choose.

Q In other words, are the blacks held down in the meeting?

A Not at all.

Q How old is your child?

A Fourteen.

Q Male or female?

A Male.

Q Have you worked on equipment with him?

A Yes.

Q On how many occasions?

A Oh, every occasion I get a chance.

Q What do you do, sir?

A Put him in the seat, explain things to him. Let him try to run it. If he's got the room and there is a safety factor involved, make sure it's taken care of and let him go on his own.

Q Would you encourage him to become an operating engineer?

A Not necessarily, but I would use it for a backdrop in case things didn't work out the way he wanted. I wouldn't have that for a future but it's a nice little trade to know.

Q Well, you know, a lot of the whites, according to the government, bring their children into Local 14 and Local 15.

A Well, I'll tell you about that. I know half of the men or three-quarters of the men in the business

don't like the idea of their sons getting in the business. They want to send them to school and have them do something else.

Q Is this the black people or the white people?

A All. Three-quarters of the men in the business.

Q Is that right?

A Of course.

Q Are there black members of 14 who have relatives in the union?

A I imagine so. I can't recall offhand but I iamgine so, yes. Jimmy Brown's son is in it. He is in 15. A couple of other guys' sons are in it; yes, there are.

Q Do you know Walter Murphy?

A Of course I do. I did know him. He is dead now.

Q What was Walter Murphy?

A I think he was the secretary or something at one time. Secretary-treasurer.

Q Ofwhat union?

A Local 14.

Q When for the first time did you come in con-

tact with Mr. Murphy?

A A long time ago, very long time ago. Prior to the war.

Q Under what circumstances, sir?

A Just by shaping the hall on different occasions on a permit.

Q Did you ever get sent out on a job?

A He had nothing to do with sending me out on the job?

Q Who did, sir.

A The business agents.

Q Who?

A At that time it was a man named Walter Shubert and a guy named Billy Green at the time, Hugh Duffy.

Q At any time did Mr. Murphy ever ask you to pay for a job?

A Can't do that. Not done.

Q I said did he ask you.

A No.

Q When you came into this local, I mean Local 14, did you have to pay any money under the table for your book?

A No.

A No.

Q What did you pay?

A $335, I think.

Q And that was the initiation fee?

A I think, if I remember correctly.

Q Now, there's been some testimony, Mr. Fulcher, about whether or not the union itself backs up its members.

Have you had any experiences where the union has failed to back you up?

A I was a little wrong one time and the refused to back me up. When you are right they are right behind you. It was just an argument with a boss in reference to something. I was sounding off a little too loud and made a little noise. I wasn't supposed to make to the boss himself, got a little cocky and I was a little wrong. There was no altercation big enough to cause anything but they will stick right with you, if you are right.

Q Is that irrespective of whether you are black or white?

A Regardless of who you are.

Q Now, you have worked on various job sites between the period 1954 and 1974, isn't that correct, for

Local 14?

A Right.

Q What job site are you working on now, sir?

A I am working for Horn Construction in Staten Island at present.

Q What job, sir?

A I am on a well point system. That is de-watering process -- temporarily.

Q What do you mean, temporarily?

A Well, my leg is a little bad and I got off the machine to give it a little rest and as soon as I feel better I am going to go right back on the machine.

Q When you say back on the machine what do you mean?

A Something, something big, you know, where the boom is a little longer, stuff like that.

Q Do you like operating the cranes?

A I do.

Q Why?

A Presents a challenge, I guess.

Q Are you going to start a new job on Friday?

A Friday?

Q Yes.

A I got to take a man's place. He is going

to court for something -- oh, in reference to his license.

Have to run a crane for one day for him.

Q Where?

A Same job. Fill in.

Q And how was that arranged?

A Well, he asked me to. He said, "Would you do me a favor and cover my job for me?"

I said, "What are you doing?"

He would do the same for me.

Q Is he a Local 14 man?

A Yes.

Q Is he white or black?

A White. Name is Tom Gettus.

Q Is that a common practice in 14?

A Sure.

Q In other words, where a man is going off for the day --

A Yes, another guy will double up for him.

Q Who will operate your piece of equipment?

A One of 15's men will do that. He'll check it out for me for the time I am away, and you have a master mechanic on the job that covers the whole job and he sees that it is done. In other words, he is competent

in all types of equipment and he just walks around and supervises the job, so consequently everything will be all right.

Q What type of license do you have?

A Unlimited.

Q Is that an A license?

A That's a B license. It goes from zero to the maximum boom that you can operate in New York City and I think they run up to 400 feet.

Q How long have you had that license?

A Since they have been instigated. I think that is about -- let me think now -- about four or five years, six years, I guess.

Q Did you ever have a different type of a license?

A Before they got the B license they had the ordinary, the ordinary hoisting license.

Q Which is an A license?

A A license.

Q When you go from A to B do they put an endorsement on it; is that it?

A They put an endorsement on it originally, with the past experience. Because mostly I've been running the type of equipment that they prescribed the license for.

At the time the license was required I was running the same type of equipment at the time, 200 feet, 300 feet, something like that, and you have been doing it for three for four years, I mean that does give you some leeway. But now I think you have to take another test, I think.

Q Can you tell me, Mr. Fulcher, even though the government represents the Internal Revenue Service, how much you made last year?

A I don't know. About 21, 22, 23 thousand, 24,000, something in that category.

Q Have you made more than that, sir?

A On different occasions, yes.

Q Are you restricted in the amount of money that you can make?

A No.

Q By anybody?

A Nobody can gauge that. It's almost impossible.

MR. KENNEDY: I have no further questions.

MR. DEVORKIN: Is Mr. Brady going to cross examine?

THE COURT: Do you have any questions?

MR. BRADY: I have no questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Fulcher, back in 1935,when you first began to work as an operating engineer, did you say you were in the yards at those times?

A Yes.

Q What kind of equipment were you operating at the time?

A Steam, gas equipment.

Q Hoisting equipment?

A Yes.

Q Did you have a license at the time?

A No.

Q Were you a member of a union at the time?

A No, I wasn't.

Q Were those yards union yards?

A Most all of them, yes.

Q How did you go about getigng the job?

A I started driving a truck for the company and during the time that you are driving the truck you back one in and equipment is in the way, you have to move it out of the way and you have to get up steam on a piece of equipment, and during that time you learn how to

run it, operate it, miscellaneous. You don't have to take it off the property either.

Q When did you get your permit from Local 14?

A Permit from Local 14, around 1950.

Q I don't mean your union book.

A PERMIT.

Q You testified on direct that you --

THE COURT: Talking about the permit.

A You said permit.

Q You said, I believe, that when you were in the yards you had a permit from Local 14.

A. I got a permit to leave the yard, to leave the yard.

Q When did that happen?

A That was in 19 -- I imagine 1936, '37, something in that area.

Q Where did you go from the yard?

A I went to work for Piccone Bros. Cinderblock Corporation in Brooklyn.

Q Were you operating the same kind of equipment?

A It was hoisting equipment, digging equipment, yes. It was a crane.

Q And how long did you have a permit from

Local 14 to operate that equipment?

A Until I got in the Army.

Q That would be about six years?

A No, no. That's '37.

Q '39. I am sorry. It would be three years.

Were there other black persons working under permit from Local 14?

A At that time?

Q Yes.

A I imagine so.

Q Do you remember seeing any?

A '37? I guess I don't -- wait -- there weren't that many in at that time.

Q Do you remember why you had to get a permit from Local 14 to work outside the yard?

A Why I had to?

Q Yes, sir.

A To keep the organization together, to make sure that the local itself or the business itself would be organized to a point where everybody would not be working for peanuts. In other words, you wouldn't want to have a lot of incompetent people running around running equipment and messing or fouling up, messing around with

the units.

Q Was there a rule at the time that if you worked for a union contractor you had to get a permission from the union to work this hoist, as a hoisting operator?

A On some occasions. On some occasions the contractor could go out and pick you up and get you in the union.

Q Then he would get the permission from the union?

A That's right. And he paid the union wages.

Q Did the Local 14 men show you how to operate that equipment?

A Yes.

Q Was that a frequent occurrence in those days, that Local 14 men showed other men how to operate their equipment?

A That is -- that was the thing.

Q When you came back from the Army I believe you testified you went back into the yards.

A That's right.

Q Did you need a permit to work back in the yards?

A Not necessarily.

Q Did you ever know Joe Delaney?

A Yes.

Q Who was he?

A He used to be the vice president of the international.

Q Did he ever hold a local office with Local 14?

A 15.

Q Was he ever a business agent for 14?

A 15.

Q Did he have a brother named Joseph?

A No. He didn't have a brother -- he had a brother by the name of Bud Delaney.

Q Was he an officer of Local 14?

Did Joe have a son named Joseph?

A I think so.

Q Was he an officer of Local 14?

A Not lr, not as I know of.

Q You don't know any Delaneys who were officers of Local 14?

A No, not as I know.

Q Back in the 1940s?

A I wasn't here in 1940. I was in the Army

then.

Q You said, I believe, that you were working as a truckdriver after you went into the yard for a year or so after the Army?

A Right.

Q And there came a time that Mr. Maguire, Sr., I guess, sent you out on a crane?

A That's right, after I approached him.

Q What kind of crane was that?

A P & H, about a 40- or 50-ton machine.

Q Was he a business agent of Local 15 at the time?

A He was.

Q Did Local 15 men operate the cranes in those days?

A On permit, if they had a license.

Q Well, what year was that that he sent you on that crane?

A 1950.

Q And you received your license in 1947?

A Right.

Q When you prepared for that license did you prepare for the license exam with other men?

A I did.

Q Was there any kind of a class?

A Not necessarily. About four or five -- yes, a class, you would call it that.

Q Where was the class at?

A At a Local 14 man's house.

Q Did you have any materials of any kind?

A Yes. It was acquired through different -- through prior exams and experiences of other men. It was all consolidated and we took the most pertinent stuff apart and put it together and studied for the exam with it.

Q Do you remember who supplied the materials?

A Mostly 14 men.

Q Did anybody teach the class?

A Yes, a guy named -- gee, I forgot his name. A guy by the name of Haighty, I think. That was years ago. He was a pretty young man at the time. He was sharp, he was sharp.

Q Was he working for the union at the time?

A He was a 14 man. He wasn't working for the union. He was on his own.

Q Did Mr. Maguire send you out to work any other cranes at the time?

A Not at the time. I was on one. I couldn't

very well work --

Q How long did you stay on that P & H crane?

A Oh, about 13 months, I guess, something like that.

Q How long after you got the crane job from Mr. Maguire did you get your membership in Local 15?

A About three weeks, I guess. Three or four weeks, something like that.

Q You were on that P & H crane for 13 months. Did you ever get a book in Local 14?

A No. You couldn't hold two books.

Q Nobody ever gave you a book in Local 14 then?

A Can't, couldn't do it.

Q Were crane operators in 1950 in Local 14 and 15?

A No. Local 14.

Q They were only in Local 14?

A That's right.

Q Was there a need for qualified operators on cranes in 1950?

A Not at all.

Q There was an excess of operators?

A There was.

Q How about in 1946?

A Well, there was quite an excess in operators then.

Q Was that P & H crane in the yard or outside the yard?

A Outside. On the city streets.

Q And you had an AMPES license at the time?

A AMPES, any motor power except steam.

Q I believe you mentioned in response to one of Mr. Kennedy's questions that Local 15 men were apprentices for Local 14 operators on the cranes.

MR. KENNEDY: That's not what he testified to, your Honor. He said he was an apprentice to Mr. Wade?

A I was an apprentice to an operator.

Q You were an apprentice?

A Right.

Q And you were in Local 15 at the time when you were an apprentice?

A I was.

Q Were there many other local 15 men that were apprentices to Local 14 men?

A They usually are. As an oiler.

Q And how long would a man work as an apprentice to a Local 14 man befo re he became a Local 14 man?

A It's according to what his aptitude is.

Q When was it that you became a member of Local 14?

A 1954.

Q Had you been operating cranes between 1950 and 1954?

A I'd been operating cranes from 1936 to 1954.

Q Between 1950 and '54 were you operating any other equipment besides cranes?

A I have.

Q What kind of equipment?

A Bulldozers, backhoes, shovels, steam equipment, pile-driving equipment; the works.

Q Do Local 15 men still serve as apprentices to Local 14 operators?

A They do.

Q Is that the normal way that men get into Local 14?

MR. KENNEDY: I object to the word "normal," your Honor.

A No, not necessarily.

THE COURT: Well, the answer is no.

Q Do men frequently come into Local 14 that way?

A No. On some occasions some came in. They just go to Local 14 without going in 15.

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Q If they aren't first in Local 15 before they get in 14, are they otherwise working on permit for Local 14?

A You ask me the question, in other words, you say this, if they are not in 15 and get in 14 --

Q Yes, sir.

A -- how do they get into 14?

Q Their experience to get into 14.

A They could have passed military experience, experience like I got it in yards and different construction companies, yards. They may have been a laborer and move a machine around on private property. You can do those with no license.

Q Are there apprentices working for Local 14 who are on permit from Local 14?

A No. Do you mean an apprentice working with a Local 14 man permit?

Q Yes, sir.

A No.

Q Does Local 14 have permit men as operators?

A On occasions. That is how I started.

Q You mentioned, I think, that you sometimes ask the oiler who is assigned to work with you for an identification, for his union book?

A Right.

Q Why do you do that?

A I want to find out if he is a union man.

Q Why do you want to find that out?

A I don't want to work with anybody but a union man.

Q Are longer in the jobs in the industry any better than shorter jobs?

A Not necessarily. I haven't worked for anybody over a year or a year and a half in my life.

Q Is a job a year or longer or a year and a half long considered a long job?

A It is.

Q Men just generally desire those jobs?

A Not necessarily. I like them day to day.

Q You would rather work a day at a time?

A That is right.

Q Do you know if there was a master mechanic on the World Trade Center?

A I think there was two or three of them.

Q Do you know how much the master mechanic on the World Trade Center makes?

A I have no idea.

Q Do you know if it is abcut $80,000 a year?

A I wouldn't know that either.

Q You mentioned, I think, that for example this

Friday when you are going to cover somebody's machine a Local 15 man is going to cover your machine?

A With the assistance of the master mechanic.

Q What kind of machine is that that he is going to cover.

A A well point machine, dewatering machine.

Q Are there other occasions when Local 15 men cover a 14 machine?

A Depending on what kind it is. Some require a license, some don't.

Q What kind of machines do they cover?

A Cranes, pumps, backhoes, shovels; miscellaneous equipment.

Q This fellow Gillis, what kind of work does he do?

A Running a crane with 200 feet on it.

Q Is it on the City street?

A No, it is not exactly. It is on a State and City subsidized job, a sewer disposal plant.

Q It is not in a private yard?

A No.

Q How long has he been running it?

A This particular machine?

Q How long has he been running a crane on this job?

A Since the job started about five months ago, four months ago.

Q Do you know what he was doing before that?

A Running a crane on another job.

Q Do you know how long he has been running a crane over there?

A I have no idea.

Q Do you know if he always runs cranes?

A He has always run them; different other types of equipment.

Q How do these laborers that you spoke of sometimes get themselves into Local 14 get experience on cranes?

A Construction yards, private property, if they have the aptitude.

Q Does it ever happen outside of private property?

A A laborer getting experience?

Q Yes.

A I imagine so.

Q Have you seen many of them on Local 14 equipment?

A Rare occasions, very rare. They don't get a chance. When you are on a job working in the daytime as a laborer you just can't put the shovel down and jump up on somebody's equipment without some super saying something to you.

Q How about lunchtime?

A That is a possibility.

Q After work perhaps?

A Not after work, no. Got to be between working hours.

Q How old is your son?

A 14.

Q There have been times you have him down and put him up on the equipment?

A Yes, sir.

Q What does he do on the equipment?

A Runs it as well as he possibly can, of course with restrictions.

Q What kind of equipment would that be?

A I had him on one with 175 feet and one shorter, and on a drill, miscellaneous other types. It is a child, something new and a novelty to him, he likes the noise, the noise of the engines, as any kind would like it, any boy, I imagine. You might like it yourself.

Q I might. At least you get paid overtime.

A You don't need any overtime, you do very nice.

Q Are you friendly with very many of the Local 14 men?

A All of them, approximately.

Q Di you know all of them?

A 25 years, I should.

Q Are they all operating cranes today?

A No, they are not all operating. Some are a little older than I am.

Q What are some of the other pieces of equipment that the Local 14 men that you know operate?

A Compressors, powerhouses, high-pressure air in tunnels, steam equipment, steam equipment in powerhouses, portable boilers on steam equipment, and water machines.

Some, for instance, run 300 pound, some 100 pound,and they are dangerous if you don't know what you are doing, you can hurt somebody or get yourself hurt.

Q How about rollers or backhoes?

A Backhoes? Two or three different types, but they are not the little back-scratching hoes that you see but the large ones like a 2-yard machine, an 80-D or a 3-yard backhoe, in that category, requires a license.

Q Are there a lot of those backhoes around?

A Quite a few.

Q All run by Local 14 men?

A Right.

Q How about rollers, heavy rollers?

A Big rollers?

Q Yes.

A Yes, 14 men on those.

Q A lot of those rollers around?

A Not too many. Only big asphalt companies use them, that is about all.

Q Local 14 men operate those?

A They do.

Q Do all of the men that are in Local 14 now know how to operate all pieces of equipment?

A Not all, not all. Some specialize in certain types of equipment.

Q Some men specialize in backhoes?

A That is right.

Q Any men specialize in dangerous pumps?

A You get a high-pressure pump like a jet pump, you get 600 pounds, and there was one that blew apart and almost killed a man seven or eight months ago, the Perini job on the North River.

Q Some Local 14 men spend most of their time on those pieces of machinery?

A It is according to the job. There aren't too many around, but you got to know what you are doing.

Q Why do you want to be a business delegate?

A I don't know, I think I could further the betterment of the local's business as a business agent. I have my own ideas about it.

Q What are your own ideas?

A I would rather not talk about those.

MR. DEVORKIN: I have nothing further.

REDIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Fulcher, when you were working on permit from Local 14, did you have to pay any money for this permit?

A Not a nickel.

Q In other words, you went down to the union hall, spoke to the business agent and he asked you your qualifications, is that correct?

A Right.

Q You were referred out to the equipment based on his judging of your experience, isn't that correct?

MR. DEVORKIN: I object as to form, your Honor.

A Yes.

THE COURT: It is all right.

Q On some of the other jobs that you work on in 14's jurisdiction from 1954 to 1974, what percentage of the 14 equipment is licensed as opposed to unlicensed?

A What percentage of the equipment requires the

City of New York license as opposed to unlicensed equipment?

Q Yes.

THE COURT: That is operated by 14 men?

MR. KENNEDY: Yes, sir.

A According to my information, 250, 275 cranes in New York City, and all of those require licenses.

High-pressure compressors, 100 pounds and up, I think the license covers that, if I remember correctly. All hoisting equipment, that is long boom, is licensed, except a roller.

Q What would be the percentage on a given job of licensed equipment as opposed to unlicensed equipment operated by 14 men?

MR. DEVORKIN: I object to that question because you have to talk about a specific job, the pieces of equipment on the job. Some of the jobs may have no cranes, some may have 10 cranes.

THE COURT: There must be some job which is a predominant type of job, generally speaking.

Q You worked on superstructure jobs, sir?

A I did.

Q What is the percentage of the licensed equipment to unlicensed equipment on a superstructure job operated

by 14 men?

A All the equipment except compressors. That is all hoisting equipment, anyway,most of it.

Q 90?

A About 80, 75 to 80 per cent.

Q What about a sewer job?

A A sewer job pertaining to all -- you got 75 per cent cranes on a sewer job, pumps, maybe backfilling machine or something.

Q You have cranes on sewer jobs?

A Yes, sir.

Q Piledrivers from time to time?

A Right.

Q A piledriver is licensed equipment?

A Right.

Q How about road construction?

A Road construction, 45 per cent.

Q Does Local 14's men do much road construction?

A A lot of the roller work, a lot of the backhoe work, if it requires it. If it requires street ripping and stuff like that. 15 predominates in that.

Q 15 does more work?

A Quite a lot.

MR. KENNEDY: I have no further questions.

MR. BRADY: I have a few questions of the witness.

BY MR. BRADY:

Q Mr. Fulcher, if you will, you talked about the oiler on the crane as an apprentice to the operator.

Actually, that man is there in his own capacity as an oiler and has a job to do on the crane?

A Grease, maintain and see that the crane is in good working order so the engineer does not have to stop during the day to make any repairsor anything like that. He is a maintenance man, really.

Q You don't mean to imply, do you, that every oiler was studying and learning to be a crane operator?

A Of course not. Some of them don't want to be one.

MR. BRADY: No further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will take a short recess.

(Recess.)

MR. KENNEDY: Local 14 would like to call Stanley Drayton.

S T A N L E Y C L I F F O R D D R A Y T O N, J R., called as a witness by defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q How old are you, Mr. Drayton?

A Forty-three, sir.

Q And are you testifying under subpeona?

A Yes, sir.

Q What is your race, for the record?

A I am black, sir. Negro. American.

Q Are you a member of the union?

A Yes, sir, I am.

Q What union, sir?

A Local 14, Operating Engineers.

Q How long have you been a member of Local 14?

A Since 1970, sir, approximately.

Q Where did you get your experience in heavy equipment?

A In the United States Army.

Q And when were you in the Army, what period

of time?

A I went in the Army when I was 17, in 1948. I retired when I was 37, which was 1968.

Q Where did you first get experience on heavy equipment in the Army?

A In Korea, in 1953, sir.

Q And prior to Korea had you had any training at all in the Army on heavy equipment?

A Heavy trucks, sir, and tank transporters and receivers.

Q Had you ever attended any schools in the Army?

A At that time, no. Only the heavy equipment operator -- not the heavy equipment but heavy truck-drivers' school in Marburg, Germany, sir.

Q In Korea what type of equipment did you operate?

A Sir, first of all, I would like to just tell you, first of all, I was like a heavy truckdriver and at that time there was no Negro heavy equipment operators in my company. And we drove the trucks for the engineer and I got my experience from a fellow named Tex Tomaczyk, who was a member of the operating engineers in Texas and he gave me my chance when some of

the, you know, people didn't want us to get in the equipment.

Q What type of equipment was that, sir?

A That was a 20-ton,truck-mounted Lima, sir. It was in Pusan, Korea.

Q How long did you work with the engineer?

A I stayed, well, I worked with the engineer, Tex, I worked with Tex close to about nine months.

Q And did you in that period of time become proficient in operating the Lima?

A Not proficient, but I learned to operate it. Like Mr. Fulcher said, when he wanted to get out of the seat and take a break, then I operated it.

Q What other types of equipment did you operate on in Korea?

A After the bulldozers, then Cat and pans, and then Turner pulls, rollers, and, you know, most equipment organic to the Army Engineers.

Q Did somebody teach you to operate that equipment in Korea?

A Yes, sir.

Q Who?

A Other soldiers, sir.

Q Were they instructors, Mr. Drayton, or were

they just operators?

A They were just operators, sir. Most of those guys were from -- my unit at that time, the 453rd Engineers, was a reserve unit and most of the men were made up of people from Operating Engineers in Texas, and if the guys saw that, you know, you always wanted to help or you wanted to learr, most of the guys would help you learn, you know, so I learned.

Q Now, how much experience did you have on dozers, for instance?

A At that particular time?

Q Yes.

A When I first started to learn?

Q Yes.

A I didn't have any on that type of equipment, other than tanks, you know, moving tanks and retrieving them in Germany, in the unit I was in there.

Q After your experience in Korea, where did you go then?

A From Korea, let's see, I went to the 82nd Airborne.

Q And what did you do in the 82nd Airborne?

A First I started out as a heavy equipment assistart supervisor; then I worked my way up to heavy

equipment supervisor. Then I went --

Q What type of equipment are we talking about?

A We had -- a lot, most of our equipment, sir, was airline delivery and it wasn't as big as the normal equipment that you might be thinking. But we did have some 20-ton trucks, we had bulldozers, everything that was organic to air drop, that was air-droppable.

Q Did you have any cranes?

A Yes, sir, some.

Q How many tons?

A We had a little unit we called "Mighty Mite," and it could lift its own weight, so it was about 10 or 15 ton and it could lift just about that.

Q What's the size of the boom on that?

A About 50 or 60 foot was the most you could put on there.

Q Have you ever operated that type of crane in the City of New York?

A Yes, sir. I worked for Colonial Stand & Stone and operated -- not that particular military type, but a civilian crane with that length of boom.

Q Now, when you became a supervisor, what were your duties?

A Well, my duties was to assign, maintain and

keep records of equipment and prepare them for airline delivery, sir.

Q How long did you remain in that position?

A Well, I remained in that position until I left the 82nd, which was, I think, in about 1955.

Q Was that prior to your discharge?

A No. I never was discharged. I always re-enlisted. A lifer.

Q Did you attend any schools at all after Korea?

A Yes, sir. I attended jump masters school and airline delivery school. That airline delivery means to make equipment prepared for air drop. And then different, you know, unit schools. We had radio school and then we had management school, and, you know, different schools like that.

Q What about heavy equipment?

A I had heavy equipment training in Korea, as I said.

Q Were you given examinations when you were in the service?

A Definitely, sir.

Q On how many occasions?

A Well, you had to take -- first of all, you

had to take an aptitude area test. Then after you took the aptitude area test you were either placed on UJT, which is on-the-job training, and then you got a 6 -- like my MOS was 612-10, that meant I was an apprentice, in the apprentice stage, and then when you took the next aptitude area test, or proficiency exam, if you rated a 20 you got a 612-20, which was heavy equipment operator.

Q Were there many blacks in that unit, sir?

A In 82nd? There were quite a number of blacks in the 82nd but not very many in heavy equipment.

In Korea, in my company, all the black guys there, we drove dump trucks and the tractor and trailers.

Q Now, in the heavy equipment section of the airborne, how many blacks would you have assigned?

A Three or four.

Q Out of how many?

A Well, I had, I think, about 30 or 40 men.

Q Were you in charge of those people?

A That's right, sir.

Q Did there come a time when you came in contact with Local 14?

A Yes, sir. If you want me to expound on it.

Q When was that, sir?

A When I retired from the Army I went to work for Weeks Dredging & Contracting Company, and they do dredging work on the water. I started out as a foreman and I worked at Kings Plaza Shopping Center and the guys used to see me running around like I was a nut, you know, because I was in the Army and I always wanted everything to be the Army way, and a couple of guys they took a liking to me because they had seen that I wanted to work, and one day Johnny Micro was running the rig and I went up and I told him that I had, you know, used to run the equipment, because I was like the foreman, you know, and the guys always seen me doing something, so he says, "You can run this?" and I said yes.

Q What kind of a machine was this?

A It was a 180 Marion, a big job. It was about -- had a 15-yard bucket on it. It was the biggest crane on the East Coast.

So I sat in the seat and, you know, he was a union man --

Q What union?

A 14. And he watched me run this drag line and he says, "Pretty good."

And then a guy in 15 let me run his bull-

dozer, you know, in between the time that I was running around keeping notes and trying to make civilian guys act like military guys. They used to get tired of me.

So --

Q Were you affiliated with any union at that time, sir?

A No, sir.

Q How long did you stay with that concern?

A I stayed with Weeks Dredging for a year. Then they had a big layoff and Mr. McPhillips, Bill McPhillips, the vice president, he thought -- he liked me very much, but he called me and he said, "Would you like to go back to Kings Plaza and take Louis Zichetello's job?" And he said, "Would you like to take his job and, you know, count the trucks, the sand trucks?"

I said, "No, sir, I don't want to do that." I said, "I got too much pride." And I had on my civilian clothes and I had my attache case and I said I would just rather quit than to lose my pride and go take the laborer's job and I have been a foreman.

And he said, "You have done a good job and all of that and we'll call you."

So I was out of a job and it was before Thanksgiving and I was worried because I didn't have very much

money.

Q What year was this, sir?

A This was 1970. And I wandered the streets and I went -- and I didn't know where to go, and I remember Johnny Nicro telling me, he said, "You can very good so why don't you go to Local 14 and take a test."

So I walked into the 15th Street office and I said, "I would like to, you know, get a job," you know.

Q Who did you say that to, sir?

A I don't know. It was a lady there and a man. I don't know really. I don't know. You know, I was -- I had never been in civilian life before except to Weeks Dredging, and I didn't know how to deal with the civilian.

So he says, "Well, you go to 14th Street." And when I walked into 14th Steeet I went into the back and at this table, about the length of that, was all these civilian guys -- you know, I didn't like civilians too much, really, and I was scared. I mean, you know, they just looked kind of hard to me, you know.

So the guy says, "What do you want?" Jackie Messinger, he said, "What do you want?"

Q Who was Jackie Messinger?

A He was a delegate then for Local 14.

He says, "What do you want?" and I says, "Well I came to get a job." And he looked at me and he laughed, because the hall was full. I mean it was packed, you know. I don't know whether there they were 14 or 15. I didn't even know what union I was in. All I wanted was a job because it was a week before Thanksgiving and we didn't have any money.

So he says, "Well, what do you run?"

I said, "Everything."

And he says, "Everything." He says, "Well," he says, we don't know many people that can run everything." So I had a book and I showed him the book and stuff like that.

Q What was the book?

A It was my military records, the book that I have over there, and the things that I had done in the military: deep-sea diving and different things like that.

He said, "Well, you have done all this stuff?" and I said, "Yes, sir." And he looked through it and he said, "I'll tell you what. Can you run a shovel?" and I said, "Yes, sir."

He says, "Well, I am going to see if you can work," he said. "If you can run it," he says, "we'll give you some work."

And I had told him that I didn't have any money and that all I wanted was to work, and I mean I love the guy just for that. I mean, he says, "All right, you want to go to 57th Street tomorrow, Eleventh Avenue?"

So I said, "All right, sir, I'll go."

So I went to Eleventh -- I said, "I want to go today," and he said, "You are not dressed for it."

I said, "Sir, I am in my working clothes."

I went to 57th, Eleventh Avenue, and I tried out for the machine, the shovel, and I worked out. And the guy's name, I don't remember the engineer, called them up and said, "The kid can run," and they gave me the chance.

Q Let me ask you this: Who said, "The kid can run"? Was he the master mechanic?

A No, the fellow that was the engineer on the rig.

When I went there, went to 57th Street and Eleventh Avenue -- the guy's name will come up in a minute -- and he asked me what did I want, and I said, "I came to run this machine," like a dummy, you know,

and he says, "You came to run this machine?" and I said, "Yes, sir. The union sent me to run the machine."

You know, can you imagine a guy sitting up there and he is working?

And so he said, "Well, if they sent you to run it,"he says, "I can't let you run it, it's not my machine."

So I went to Mr. -- the company that had -- Breen, Mr. Breen was outside, and he says, "Well, I can't let you run my half-million-dollar piece of equipment and I don't know you," and I said, "Sir, I was in the Army and I ran equipment and I just want a chance." I says, "I don't have a job and I have a family."

He says, "Well, okay, go ahead and try it."

So I got up there and then I got down. The fellow says, "You are all right, fellow," and I went back to the hall and I was happy as a, you know -- I was just happy as could be, and they sent me out to work.

T7

Q Now, Mr. Messinger talked to you about a license?

A Yes, he said study, prepare yourself. If you study, you take the test and you pass the test, he says, you will be a member of this local.

Q Now, did you go out to work in Local 14's jurisdiction in 1970?

A Yes, I did.

Q Were you on permit?

A Yes, I was.

Q What type of equipment did you work?

A First started off on a derrick. Then I went on Co-Op City and run a backhoe. Then I went with Colonial Sand & Stone running a clamshell. I went from there, you know, different small jobs, Kennedy Air Field, under the guidance of the master mechanic and engineers on the job.

Q Now, when you say under the guidance, were you supervised by those people?

A Yes, at times. Sir, after my experience in the Army, I was qualified, and the only thing I had any problems was the technicalities, and they would assist, and the master mechanic would make sure I was all right.

Q Did Mr. Messinger at any time suggest that you go into Local 15?

A No, sir, he never did, because a lot of

people I would ask, which was wrong of a soldier, I asked, I said if I done good, and I was very conscious of not making good and like I say, I really didnt trust civilians after being out of the Army for a year, and Mr. McPhillips laid me off and thought I was so good and he just told me to study and try and I would go on.

Q Now let me ask you this: from the time that you had your first conversation with Mr. Messinger how long was it until you obtained your City license?

A About close to a year. I studied for six or seven months for the written.

Q During the period of time did you shape the hall?

A Yes, I did.

Q On how many occasions?

A On numerous occasions.

Q Were the jobs that you had during that period of time long jobs or short jobs?

A They were intermittent.

Q What do you mean by that?

A I would say maybe some were a week, some three weeks, some a month, two months. I worked for Colonial Sand & Stone the whole season, which was, say, about six or seven months.

Q During that period of time were you supervised

by the master mechanic or engineer?

A Yes, sir.

Q Were they told to do that by the union?

A What?

Q To watch you because you were unlicensed.

A I don't know, sir.

Q When you shaped the hall, Mr. Drayton, the 14 part of the hall, were there black men and white men in that hall?

A Yes, sir.

Q Howwere the jobs handed out?

A You came in, put your name on a list and when your name got up, I imagine they were all asked, "Are you qualified to run such-and-such equipment?",and I imagine that is the way they sent us out.

I was a permit man, I didn't know. I couldn't get on the rolls. They come out and give me jobs.

Q Did any of the blacks complain about the way they were treated in the hall?

A Not that I know. Most of them were sitting with the white guys and talking with them, and I would sit by myself because I didn't know anyone and they would say, "Hello, this is my friend," and I never heard any other things than that.

Q How did you come to take the license examination?

A I studied. I went to the union, they had a little class, and Mr. Messinger said, "Stanley, I know you are studying and you can pass the test. But if you like to go where they have a class of the union up at -- one of the men and itis not going to cost you anything, and if you want to go two nights a week, you go."

I had the desire, so I went two nights. Sometimes it was an inconvenience.

Q Where were the classes?

A In Dyckman Street up near 207, 203rd Street.

Q Who conducted that class?

A John Dingle.

Q You didn't pay any money for that?

A No, sir, I did not.

Q How many men were in that class?

A I don't know, about 20, 15 or 20, sir.

Q Any blacks besides yourself?

A Yes, I think one or two others.

Q Did you have any relatives at all in the union at that time?

A No, I didn't.

Q Do you know whether any of the other blacks had any relatives?

A No -- like I said, I didn't delve into union busi-

ness, the only thing I wanted to do was work, and I had to study because I was worrying about passing that test. That is all.

Q Did you take the written test?

A Yes, sir, I did.

Q Did you pass it?

A Yes, I did.

Q The first time?

A Yes, sir.

Q Tell me, did you find that that examination was difficult?

A No, sir. Not after I had studied and it was easier, I think, that the Military proficiency test was.

Q Did you also take the practical examination?

A Yes, I did.

Q What types of equipment did you operate?

A Well, we had a clamshell, bulldozer, the compressor,you had to give an orientation on the process of compression.

Q When you passed your license examination did you file an application for membership?

A Yes, sir, I did.

Q In Local 14?

A Yes.

Q When did you file that application?

A Well, shortly thereafter that I had passed the test, the written test, and got my license.

Q Was this in 1970 or 1971?

A I imagine 1970. I got my book, let's see, in April, April 4th, I think it was, or August 4th.

Q If I suggest April 6, 1971?

A Right,you got the date.

Q How soon after you filed your application did you get your book?

A I think it was about a few weeks or a month.

Q Now, did you appear before any committees of the union?

A Yes, I appeared before the body, appeared before the examining board, and there is one other.

Q You appeared before the examining board, and did they ask you to exhibit your license?

A Yes, they did.

Q Ask you questions?

A They asked me questions about equipment, work and previous experience, military experience.

Q Any other questions?

A No, sir.

Q Were there other people there at the time?

A The examiners or other people before.

Q How many, sir?

A The examiners, I imagine four or five. I really don't know. I wanted to qualify and I was thinking about what they were going to ask me.

Q Were other candidates being asked questions?

A Yes, sir.

Q White or black?

A Some, I think most were white or all of them white.

Q Did you have an opportunity to hear the questions asked of them?

A No, sir.

Q In other words, each person went in separately?

A That is right.

Q Did everybody get through the examining board?

A I don't know, sir.

Q At any time did anybody ask you for any payment to receive your book?

A Only the regular union initiation fee and dues.

Q When you were working on permit, Mr. Drayton, did you receive union wages?

A Yes, I did.

Q What wages did you receive?

A Well, there were different wages for different types of equipment. I received wages for the derrick the same as everybody else, that I was entitled to.

Q When you were working for Colonial for the six-month period was that in the yard?

A Yes, sir.

Q Private property?

A Yes, sir, it is Colonial's yard.

Q For the six-month period?

A Yes, six months. This was the concrete period, warm weather.

Q The period of time that you worked outside of Colonial, they were short jobs, weren't they, a week?

A Yes, sir, maybe a day, two days, and I had to shape the hall.

Q Who did you work for after you got your book?

A I went to work for, the first job, I got my book, I think, Buckley.

Q What kind of equipment did you operate?

A A Marion.

Q Is that a crane?

A Yes, it is.

Q What kind of booms did it have?

A 80 foot of boom.

Q What type of equipment have you operated other than the Marion since then?

A Since then I went to the job on 132nd Street off 12th Avenue for Perini Corporation.

Before that I worked for Spencer, White and Prentice, I had a 75-ton Lima and then after that, they transferred me to the Perini on a 4100 Marion with 160 foot of boom.

Q Had you operated pieces of equipment like that in the Army?

A To a degree, yes, sir.

Q I am sorry, I missed the question I wanted to ask you.

When you were becoming a member of Local 14, did you have to have sponsors?

A Yes, I did.

Q Who were those sponsors?

A Fred Carin and Thomas Dowd.

Q White or black?

A White.

Q How did they come to be your sponsors?

A Well, I was working on the World Trade Center and I would go into the room with the rest of the guys and sit around and we would talk, people would talk.

One day one of the men got sick and I helped him out and we just became friends and talked a lot and I talked to him and he talked to me.

Q Who is "him"?

A Mr. Carin. Tom Dowd was the master mechanic.

Q On this particular job?

A Yes, sir.

Q What is the purpose of a sponsor, do you know?

A Yes, sir. I would imagine it is someone to sponsor you for the job that has some knowledge of you as a person because I find that operating heavy equipment in civilian life, it is an emotional strain. I got high-blood pressure now. Working for other trades and for other individuals, and they would like to know what type of person you are, whether you are going to get angry and swing the boom over and hold some personal animosity and a man might say, "My foot slipped," and kill four or five guys because he didn't like them. That is why they want to know what type of person you are.

Q Did you ask those two gentlemen to be your sponsors?

A Yes, I asked one of them. I told him I didn't know anyone. I didn't have anyone and Mr. Howard also after meeting took me up on his crane. He was running

the kangaroo crane on top of the World Trade Center, the gentleman there now.

Q I thought there were no blacks on the World Trade Center?

A He is black.

Q Howard?

A I thought he was.

Q Were there any other blacks, do you know, on the World Trade Center?

A Quite a few, yes.

Q 14 and 15?

A 14 and 15.

Q Now, do you receive the same wages as whites do?

A Yes, I do.

Q Do you have voting privileges?

A Yes, I do. I just voted.

Q Is there any distinction in Local 14 between blacks and whites?

A Not that I know of.

Q Practices in the hiring hall, any difference between black and white?

A Not at all.

Q How about obtaining jobs, how do you obtain jobs?

A I go to the hall and get the job. I wait and

when the job comes up and my turn comes up, I get the job.

Q Have you ever called an employer yourself?

A No, sir, not yet.

Q Why not?

A Because I don't know anybody.

Q Is there any rule against it in Local 14, about blacks or whites calling employers to obtain employment?

A Not that I know of.

Q How much did you make last year?

A I made $21,000.

Q Let me ask you, did you work continuously during 1973?

A Yes, sir, I did.

Q For whom?

A 1973 I worked,like I said, for Spencer, White & Prentice and the Perini Corporation.

Q Was there a break between those jobs?

A No, sir. When we finished putting in the wall, the slurry wall.

Q In what job?

A It was Spencer, White & Prentice. The barges were coming in, five barges with 10-ton cranes, two cranes on each barge, and as the barges were being prepared at Weehawken, New Jersey, they would transfer the engineer

or get an engineer to go over and pick the crane up and load it on the barge and pull it into a certain position and work from there.

Q Was this just a transfer from Spencer to Perini?

A Yes, sir.

Q From the Spencer job?

A Yes.

Q You went with it?

A Yes.

Q How about at Perini?

A 4100, 250 tons. It can take up two, I think, a 400-foot boom.

Q What type of a boom was operated on the Spencer & White job?

A Spencer & White I had a 100-foot, sir.

Q What about Perini?

A 160-foot, sir.

Q What type of a license do you have?

A A license.

Q That permits you to operate up to what?

A Two hundred-foot.

Q Now, you have oilers working with you from time to time?

A Yes, sir. All the time.

Q What color, sir?

A Well, I've had mostly white and I had two black oilers, sir.

Q Do you do anything to help them learn how to operate?

A Yes, sir, I do.

Q What do you do, sir?

A Well, when a guy comes down, you know, and if he likes me and I like him, you know -- it's people, not union things; just people -- and if a guy is nice -- some guys come in and they say, "How are you doing?" and they are nice, and you say, "Well, can you run?" and

the guy says, "Yes. I am trying to get my license," and you say, "Well, when I get a chance I'll let you saddle up" -- that's what we call it. And the guy will sit there and you tell him, "This is a boom, this is a boom dog. Be careful of your radius. Use your radius." You tell him the finer things that you wouldn't learn just offhand.

Q Have you done that with both whites and blacks?

A Yes, sir, I have.

Q Do you encourage them to join Local 14?

A Yes, sir. I mean, most of the guys that I had were -- most of them were older oilers and some of them didn't never want to get in Local 14 for the simple reason, like I said, the seat is sometimes murder. You know what I mean?

Q Now, have you ever attempted to recruit blacks to come into Local 14?

A Yes, sir, I have.

Q On what occasions?

A Well, occasions that I have talked to my friends, like my son-in-law. He is on permit for Local 14.

Q Where is he working?

A He is working in the tunnel.

Q And had he had any experience at all before?

A He was a mechanic.

Q With what local, sir?

A No. He wasn't a mechanic in any local but he was a mechanic in a garage.

Q How did he come to work under permit?

A Well, because I asked him. In fact, I mean, Mr. Messinger has spoken to me. He said, "Stanley," he said, "times are changing." he said. "It's time for everybody to help minorities get into these construction trades." And he said, "If you know any black youngsters," he said, "I don't care who they are, where they are from," he said, if you think they are the type of young men that are sober and that want to learn, let me know."

I said, "Any time."

Q And did you recommend your son-in-law?

A Yes, I did.

Q How old is he, sir?

A He is 22.

Q And where is he working?

A He is working on the tunnel.

Q What tunnel is that?

A High Bridge.

Q How long has he been working there?

A He's been working there a little over a year.

Q Are there any other occasions where you have attempted to interest blacks to come into this business?

A Yes, I have.

Q What occasions, sir?

A Well, I went to the Joint Apprentice Association -- I don't know whether you know -- that's 125th Street. It was 125th Street. And I had a friend who was in charge of the thing, who started developing it, and I offered my services to him. I told him that any time -- I taught rigging in the Army, I taught domolition and heavy equipment, and at any time that he needed my services, to let me know and I would like to help, you know, teach some of the black youngsters and then possibly refer them to our union.

Q Let me ask you this: Who was the gentleman that you talked to that was your friend in this apprenticeship program?

A I think the name was Jim Skeet or -- well, the name is there and I think it's Jim Skeet.

Q Does the union know that you are interested in recruiting blacks?

A Well, I would imagine. I would imagine they are.

Q Have they tried to deter that type of action on your part?

A No, sir.

Q There has been some testimony here, Mr. Drayton, about unions not supporting or backing up blacks in connection with a variety of things.

Have you had any occasion where you have had difficulties with employers?

A No, sir. Only with some of the men on the job.

Q What was that occasion?

A Well, sir, if I can expound, some time when a black engineer is in the seat and some -- many people haven't worked with him, they tend to be a little nervous of you because they don't know whether you are holding some basic grudge or whether you have just been slid in the door without being qualified, and I had trouble with a foreman and we had an altercation.

Q What union was the foreman in?

A 1456, the dockbuilders.

And then the other dockbuilder said, "Well, we are not going to work with him." And my friend, the

engineer on the other rig, Jimmy Jordan, he said, "Well, if you are not going to work with that man, then" -- and all the guys were white on the barge in our union except one other -- he says, "well, then we are not going to work with you."

Q What color is Mr. Jordan?

A He is white.

Q Is he a member of 14?

A Yes, he is. He stood by me.

So the master mechanic had to come down and it almost caused the job to shut down because the union said they wanted me to be fired on the barge. I am not holding any animosity, but I am saying that the men, the dockbuilders, had never worked with black engineers before and so they were kind of apprehensive.

You understand, you have to prove yourself. Every time one of us get in the seat we have to prove ourself.

Q Have you gotten a fair shake from Local 14?

A Yes, I have.

Q Do you have any gripes or complaints?

A None at all.

MR. KENNEDY: I have no further questions.

MR. BRADY: I have no questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Drayton, you said you had 20 years' experience in the military, is that correct?

A Yes, sir.

Q You said you were a heavy equipment supervisor in Korea, is that correct?

A That's right, sir.

Q How did you get to be a heavy equipment supervisor?

A Well, after working, sir, and we moved to Ipjang, which is a small village outside of Suwan. It was two cranes, two bulldozers, and I was promoted to the grade of E-5 and, as you know, in the Army, we have slots and before they can promote you, you have a slot, and I had done my job and proved my efficiency and I was promoted and I was in charge of this small group of equipment and men.

Q What kind of equipment were they working with?

A We had two D-8s, a couple of Turner pull Super C's, we had two Lima shovels, plus the organic machine guns and rifles and things of that nature.

Q What kind of equipment did you know how to operate at that time?

A All of it, sir.

Q You said you received some training in a heavy truck drivers' school in the Army before that?

A Yes, sir, in Marburg Germany.

Q Could you briefly describe that training?

A Well, sir, at one time in the Army, in 1948, you know, just if you don't mind me telling you like it was, they was all-Negro outfits and the most thing that we done was drive trucks. I was assigned to the 1st Infantry Division in Nuremberg, Germany. During the ti me of the Berlin airlift, that was still going on, and the 67th Heavy Truck Company needed drivers, and, like I said, most of them were Negroes in the old ex-red ball units, and I was assigned to school in Kitzingen, Germany, and that was the school, and we went to Marburg for the drivers' training.

Q What kind of training was that?

A We were taught how to drive tractor-trailers, how to recover tanks, how to maneuver trailers in backing and so forth.

Q What kind of skills were required for those jobs?

A Well, I would imagine manual dexterity, basic amount of common intelligence.

Q Were those skills useful to you when you started operating heavy equipment?

A Definitely, sir. That's how I got to be the driver for Tex.

Q Tex, he was an operating engineer?

A Yes, his name was Tex Tomaczyk. I don't know how to spell it.

Q You say he was a member of the Operating Engineers local?

A Out West, yes, sir.

Q When you first worked for him at that time is it fair to say you had had most of your experience on the trailer trucks?

A Yes, sir, dump trucks and things of that nature.

Q What did he let you do when you first worked for him?

A Well, the first thing I did was set a Bailey bridge panel, and he wanted to eat lunch and he let me sit up in the seat, and I sat in it and set in the bent for the timber trestle bridge, and that was in Pusan, sir.

Q What kind of equipment was that?

A That was a 20-ton Lima, sir.

Q Is that a crane?

A Yes, sir.

Q And before that you mostly had the truck-driving experience?

A Right, sir, and loading up and unloading equipment.

Q Was your previous experience useful to you in getting to adapt to this equipment?

A Yes, it was, sir.

Q Can you describe for us in what way it was useful?

A Well, sir, I found that my whole, complete military career assisted me in transition from one type of job to the next.

Q Have you generally found that your military experience was useful to you when you got to civilian life?

A Yes, it was, very much so.

Q When you got out of the Army you said you first worked for Weeks Dredging & Contracting?

A Yes, sir, I did.

Q Where was that job?

A Elizabeth. Their office was in Elizabeth, New Jersey. The job was Kings Plaza Shopping Center in Brooklyn.

Q How did you get that job?

A Well, sir, I -- first, when I was getting ready to get out of the Army -- when a man gets ready to get out of the Army he gets a little afraid. I had been in the Army all my life and I had never been in civilian life, and the Army taught me everything I knew. In fact, I got my high school diploma in the Army.

So I started -- I joined -- I was going on the police force. I qualified for the police force and I was supposed to go in October for the personal interview. And I also qualified for narcotics correction officer.

Q What police force was that?

A New York City, sir.

And the lady says, "Mr. Drayton, you know that you are two months too old."

I said, "What?"

She said, "Yes, sir, you are two months too old and we can't process your application."

So I went to the Bureau of Personnel, I wrote the mayor, I went to see Mr. McManus, the deputy commissioner, and I wrote to Commissioner Leary and I told him that I was an instructor in karate, judo, and I had been a deep-sea diver and welding and rigging and all the qualifications I had in the Army. So they brought me

in and I spoke to Deputy McManus and he said, "If I could take you and overcome the Civil Service rules," he said, "I would take you now." He said, "I just like the way you are."

And after that, then I says, well, maybe I better stay in the Army.

And I met a colored fellow and he says, "You know, the engineers are looking for people. Mr. Bennett, he is one of the active civil rights men in Harlem. In fact, I went in the Army in Harlem. And he said, "Why don't you write to this outfit."

So I wrote to Mr. Weeks and I sent him my portfolio there, and one day he sent for me, and being the military type, I figured, well, you go there in uniform, because, you know what I mean, you know, you make a better impression, so I went to Mr. McPhillips and we sit down and we talked, and he asked me what I could do, and I told him I had been a deep-sea diver and he said, why I didn't go into deep-sea diving.

Q Who said that.

A Mr. Bill McPhillips.

Q Who was he?

A Weeks Dredging. He is the vice president.

And I told him that, you know, I thought it

would be easier to get, being that diving is a brother job, you know, brother and real close relative. Like in the Army there was only 32 deep-sea divers and you had to fight to crack that, so I don't want to fight no more.

So he said, "All right, I'll give you a job, and you can just be a general foreman and then probably you will learn more," and eventually I progressed to be a superintendent of a barge and he was --

Q What kind of work were you doing there?

A At that time I took care of the layouts, small survey jobs, handled dump scows, prepared the sites for compaction and grading, and also done some typing, which I can type. I went to the Army career counselors school. I could type. And I had done backcharges, and then in general I was an assistant to the superintendent, sir.

Q Did you learn how to do all of that in the Army?

A Yes, sir, I did.

Q Who actually referred you to Weeks?

A Mr. Bennett, sir.

Q Who is Mr. Bennett?

A He is just one of the -- like there is some

civil rights guys in Harlem, they knew me from 125th Street, knew I was in the Army. And at first, when I was going to get out of the Army, I was asked by some people to help train guys in a club and I said that wasn't my bag. I was going on the police force. And a lot of people respected me, and he referred me.

Q Why did you go to Mr. Bennett?

A I went to many people. I spoke with the mayor, I spoke to high schools, colleges, and I met people. That was my job as the Army career counselor. I was with Mayor Lindsay, took him on a tour of Harlem, and just through meeting people and knowing that I was getting ready to get out of the Army, you know, I explored the possibility, I imagine like you would do in civilian life.

Q Did you try to get any job as an operating engineer prior to going to Mr. Bennett?

A No, sir. After I met Johnny Nicro. I had never even entertained the thought that I could get the job.

Q Why was that? Why didn't you think you could get the job?

A Because I wanted to be a policeman.

Q You said you were told that the engineers were

looking for people. Who told you that?

A Mr. Messinger.

Q Back at that time?

A No, not at that time. I was telling you about when I put my nephew in, my son-in-law.

Q I am talking about when you first got out of the Army and before you went to work for Weeks. I believe you testified that people told you that Engineers were looking for people and that's how you ended up going to New Jersey.

A No, sir Weeks Dredging Company was looking for someone and Mr. Bennett gave me his number and his address and I sent him material.

Q And where was that in Elizabeth, New Jersey?

A Yes, sir. 570 North Broad Street.

Q How long did it take you to get there from your home?

A About 15 or 20 minutes.

Q Is that the only job you sought at that time?

A Oh, no, sir. Except for the Police Department, narcotics correction and c orrection officer.

Q Were there any cranes on that job?

A Yes, sir. Floating cranes, steam cranes, Clyde whirlies, land cranes, dozers, et cetera.

Q Big cranes?

A Yes, sir.

Q You testified earlier there was one crane, that that was one of the biggest cranes on the East Coast?

A That's right.

Q What was that?

A It was a Marion.

Q Do you know how to operate that?

A Yes.

Q Where did you learn to do that?

A In Alaska. You know, I have been a lot of places. When I was in Alaska I was in the heavy equipment section in the United States Army. After I left the 82nd I was assigned to Alaska.

I went to Alaska and I was a heavy equipment operator, qualified, and I was assigned to a garbage truck because at that time in the Army heavy equipment didn't like blacks in it, and that's a fact. So this sergeant named Sergeant Black, and we had a guy named Windy Burgeron who was an expert heavy equipment operator, he says, "Well, wjy don't we assign this guy to the garbage truck."

At that time at the port of Whittier, Alaska they assigned me to a garbage truck, and most of the colored guys said, "I told you, man, you wasn't going to

get into heavy equipment."

Q Did you get into heavy equipment in the Army there?

A I got into a heavy equipment section.

Q Did you operate the large cranes in Alaska?

A After a few months of fighting and begging and then proving myself, I got on a crane, a backhoe.

Q And was this similar to the big cranes you later saw in civilian life?

A Yes, sir, they are most all the same.

Q When you first got referred to work by Mr. Messinger, what was that first job again?

A That was -- the first job, after the practice, you mean, after the test, like?

Q Yes.

A That was down on Water Street, sir, on a derrick.

Q And how long did you work on that job?

A A couple of days, sir.

Q And what job did you get after that?

A Right after that I went to, I think, on the telephone company building. That was on Second or Third Avenue. It was on another derrick.

Q Did anyone complain about your operating the

derrick?

A No, sir.

Q Did anyone complain about your competence to operate it?

A No, sir, they did not.

Q Where did you operate after that?

A I went from there -- it's difficult to remember, I went so many places. I was on --

Q What other kind of equipment did you operate in 1970?

A I operated a roller, I operated -- oh, sorry. I went to Necclaro Sewage Company, and that was in Brooklyn, and I ran hydraulic backhoes, the large, the big cranes, and I ran a crane, a Marion, a truck crane.

Q At that time did you see other Local 14 men doing the same work?

A Yes, sir, I did.

Q Were you doing the same work they were doing?

A Yes, sir, I was, sir.

Q Where did you learn how to operate a backhoe?

A Well, in Alaska. Well, in Korea, like I said, we ran everything. We had everything in our outfit and we had every piece of equipment you can name.

Q During that period when you were on permit,

were there other men who were on permit as well?

A Well, I didn't know, sir. I was pretty much to myself. All I wanted to do was do my job and prove myself in the union and that's it, and get my book and make good for my family.

Q You said there was some kind of a list in the hiring hall?

A Well, there is a list, like. If the hall is full, if you have a book -- I don't know how the procedure goes because I've never been on the list, as I said -- and to make sure that it's all fair, everyone signs in and I imagine that's how they come out and give the jobs out, according to who is first come, first served.

Q Back when you were on permit did anyone ask you to sign up on the list?

A No, sir, I didn't.

Q Were you told that you could be on the list?

A No, sir, I wasn't.

Q Were you told you couldn't be on it?

A No, sir, I wasn't.

Q When was it that you took that union class for a license test?

A That was in 1970, sir.

Q Beginning or end?

A Pardon, sir?

Q Beginning of '70, end of '70?

A Around the beginning, sir.

Q And where precisely was that class given?

A It was up near -- in the Dyckman Street area on Broadway. I think about between 203rd and 207th, sir.

Q Do you know what kind of a building it was in?

A Yes, sir, small, like storefront.

Q Was it like on a commercial block?

A No, sir, it's a regular block. Just, like -- you know how Broadway is: you have got shoe shops, bars and everything else.

Q About how long did that class last?

A Oh, I think about three or four months, I would imagine. You know, we went twice a week.

Q You went twice a week for the entire three or four months?

A Yes, sir. I went every day. You know, every time that they had the class. I might not be accurate in it, you know what I mean, the time frame of the school.

Q Could you go over again, what actually did they

teach you in the class?

A Well, they taught us about electrical wiring, you know, different types of electrical motors, different types of derricks, the different types of crane, radius, safe working loads, wire rope rigging and most of the basic subjects.

Q Had you learned any of that in the Army?

A Yes, sir, I had prior knowledge of it, sir.

Q And --

A Sir, I might say, you know, in all fairness to both sides, I became a deep-sea diver, you know what I mean, and that, you know, left me rusty in so far as what, you know what I mean, the technical things in heavy equipment was, so this school was a refresher and I had to study. If you don't study you are not going to pass the test and you need to study.

Q How many people were in the class at that time?

A I would say about 15 or 20, roughly. That may not be accurate but --

Q How many black people were in that class?

A Myself and one other, I believe.

Q Do you know his name?

A No, sir, I don't.

Q Do you know if there any Spanish-speaking or Puerto Ricans in the class?

A I don't know, sir.

Q Did you find the class helpful?

A Yes, I did.

Q During the time you were in that class were you still working on permit from the union?

A Yes, sir, I was.

Q Do you know if other people in the class were also working on permits from the union?

A No, sir, I don't know.

Q Do you know if any of the people in the class at that time were members of Local 15?

A I would imagine they were, sir.

Q Do you know if they were? Did you talk to any of them?

A Yes. I spoke to some of the guys but, you know, like I said, I didn't know who they were and who to, you know, talk to, really. I mean that's the honest truth. But everybody treated me fairly in the class.

Q Please restrict yourself to answers to my questions, please.

A Very well.

Q When did you actually get your license?

A Sir, I got my license in 1971. Let me get it out and I'll get a date.

Q You said you took a city test, is that correct?

A Just a minute, sir.

MR. BRADY: I think you asked the question.

A I want to give you the exact specifics.

August 18th, August 5th, and it's the new license which, which expires on the 26th, sir.

Q When did you first get your license?

A 1971, sir.

Q August 5, 1971?

A Yes, sir.

Would you like to see it, sir?

Q No. Thank you.

A All right.

Q When you took the licensing test what kind of equipment did they have you on?

A Sir, I think they had old Bay City, they had D-7 dozer, they had the air compressor and I think that was about it, sir.

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Q Did they test you on the crane?

A Yes, sir.

Q Do you know what the length of the boom was on the test?

A I think it was 60 -- the boom length is considered by the type of job that you are going to do. So this particular crane was for loading and unloading loads from a hopper, and it was 60, maybe 70 foot. I was concentrating on passing that test.

Q Mr. Drayton, do you renew your license every year?

A Yes.

Q Do you think it is important?

A Very much so.

Q Why is it important to renew it?

A Well, No. 1, I think it is important to renew your license because that is the law, for the first thing.

And No. 2, you can't work without it and, No. 3, if you can't work --

Q How many different jobs have you had since you joined the union?

A About 20 or 30, I would imagine, sir.

Q Have you gotten to know a lot of people in the union?

A Quite a few, sir.

Q The men you know, when they joined the union, did they have as much experience as you had?

A Sir, I never go into anybody's personal experience, only talking to guys and made friends with them. The men that were oilers and stuff like that I delved into, questioned them, and if I could help them I helped. The same I done in the Army.

Q In your experience do all the men in Local 14 operate all the equipment?

A All the men that I have met can operate anything.

Q Every single one?

A Every single one.

Q How many men have you met?

A A few thousand, I would imagine, a couple of thousand on both sides.

Q How many Local 14 men have you met?

A Maybe a thousand, I would say. I haven't asked all them the pertinent questions.

Q To your knowledge, all can run all the equipment?

A The ones I met can run anything I can. I can't say.

Q Any specialize in any particular kind of equip-

ment?

A Not that I know of.

Q Did you ever operate a crane with a boom over 200 feet?

A No, sir, not yet.

Q Would you like to?

A I think -- I don't think I have enough experience right now even with all the years I have because there are a lot of things I don't know about it.

I would imagine if I took the test and asked to learn they would put me on as apprentice with someone else with a 200-foot boom.

Q How would you get to be an apprentice?

A Say, if someone is working and maybe it is my time off, I can go over like I did with Uncle Gene and I asked him how about showing me how to handle it and when I could take the test and pass it I would imagine the union would put me probably on an inside job with a master mechanic until I am proficient enough.

Q Do you know what the difference is in the technical proficiency to operate a boom over 200 feet as opposed to a shorter one?

A Yes, sir.

Q What is the difference?

A The indicated radius, weights and plus -- just like handling a load, say, over a high building like this where you can't see the men, sir -- I can't even begin to tell you. It is a lot of it that comes just from experience. Do you understand what I am trying to say to you?

Q Could you see the end of the boom on every crane you have operated?

A No, sir, you can't.

Q You say you have a son-in-law down in tunnel work?

A Yes.

Q What kind of work?

A He runs a mucking machine, I think it is, or an engine.

Q What is his name?

A Earl.

Q That is his first name?

A Earl Flythe.

Q Is he a member of any local union?

A No, he isn't.

Q Is he on permit from any union?

A 14, sir.

Q You said you had a conversation with Mr. Messinger when he told you that times are changing, you should try to

get people from minorities into the union, is that correct?

A Sir, let me be specific --

Q Will you please answer the question, did you have a discussion?

A It is not correct the way you are stating it. If I can restate it?

Q What did you say to him and what did he say to you?

A Mr. Messinger, and again I am a little partial because this man will give any man a chance. He said, "Stanley, it is time we help black fellows get into the unions and get the jobs they deserve. If you know of anyone that can qualify or that you think would like to learn, you let me know."

Q When did he say that to you?

A Shortly, when I was working down on the Buckley job.

Q When was that?

A In, I imagine, 1971.

Q Anyone else ever say that to you?

A No, sir.

MR. GLASSMAN: I have no further questions of this witness.

MR. KENNEDY: Just one.

MR. BRADY: I have some questions. Shall I ask them now?

THE COURT: All right.

BY MR. BRADY:

Q Mr. Drayton, from your experience --

MR. DEVORKIN: Could I make an observation? We ought to have a rule as to the order of cross-examination by the defendants, because --

THE COURT: I think we will in the future, because when Mr. Brady says he has no questions I assume he has no questions.

MR. DEVORKIN: There has been no redirect examination.

MR. BRADY: I have no questions on the original, but I have some questions that came up on cross. Do you want me to wait until Mr. Kennedy has redirect examination?

THE COURT: I don't care, but if there is anything you want to cover on direct I think you should do it at that time and you are not cross-examining.

MR. BRADY: Well, I don't know. He is not my witness.

THE COURT: All right, let's go ahead. Ask the questions.

BY MR. BRADY:

Q From your Army experience, Mr. Drayton, is it possible for a man to be rated with an MOS as heavy equipment operator and actually not be operating heavy equipment?

A Not really, sir. He can have an MOS and be pulled out of that MOS.

Before you lose your MOS there has to be a re-evaluation if the man isn't efficient in the Army, all the officer has to do is say, "I want this man reassigned."

Then he will be moved pending the MOS change. So he can be in two different fields at one time.

Q Isn't it possible, as you stated, that with an MOS as a heavy equipment operator you can be driving truck?

A That was part of heavy equipment. Anything over a certain tonnage and anything that was mechanical.

Q I should have said, is it possible for a man to have an MOS in heavy equipment as an operator and really never get a chance to operate a dozer or a loader?

A Well, at the time, like I said, white soldiers were getting used to black soldiers and when I came in I was put on the garbage truck and I had been in Korea and the 82nd for many years and they didn't give me a chance because they didn't like black guys on the equipment.

I hate to say that to you, but it is the truth.

The Major came and told them to put me on a crane.

Q You say you were fortunate in running into a fellow like Tex?

A That is right, definitely.

Q That was a stroke of luck?

A Definitely.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will adjourn until 2.15. I have a hearing and you might have to wait a few minutes.

(Luncheon recess to 2.15 P.m.)

MR. KENNEDY: I call Mr. Howard.

E U G E N E H O W A R D, called as a witness by Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Howard, how old are you?

A Sixty.

Q Are you a member of any local?

A Yes, sir.

Q What local, sir?

A Local 14, Operating Engineers.

Q When did you become a member of Local 14?

A 1974.

Q And are you licensed to operate equipment in the City of New York?

A Yes, sir.

Q When did you receive your license?

A About 1946 or '47.

Q Did you receive your license prior to the time that you came into Local 14?

A I had a license from another state.

Q Now, did you receive any training in heavy equipment?

A I received training in the job prior to coming into New York City.

Q Where did you receive your training?

A At New York -- Jersey Central.

Q What type of equipment did you operate?

A Steam cranes, locomotives.

Q Anything else, sir?

A Not at that time.

Q Did you have a license in New Jersey, sir?

A Yes, sir.

Q What type of license did you have in New Jersey?

A Second class steam license.

Q What did that license entitle you to operate?

A Any portable steam crane.

Q Now, how long had you worked in New Jersey operating heavy equipment?

A About two years.

Q So that would be the period 1945 to 1947, approximately?

A About that.

Q What did you do prior to 1945?

A Well, after I left the Jersey Central I came to New York and I went to the Navy Yard.

Q What did you do in the Navy Yard?

A I ran a crane.

Q What type of crane?

A We had gantry cranes, regular track cranes, truck cranes, and Caterpillar cranes, dry dock cranes.

Q How long did you work in the Navy Yard?

A From about 19 -- I am not good at dates, but it is somewhere in the neighborhood of 1942 to about '46.

Q So you had approximately four years' experience running various types of hoisting equipment, is that correct?

A That's correct.

Q Did there come a time when you made application to become a member of Local 14?

A That was right after the war, right.

Q And how did you come in contact with Local 14?

A Well, during the war there wasn't too much going on in construction outside so a lot of the 14 men had taken jobs in the government.

Q With the Navy Yard?

A Right. Some were on private work and some were working for the Navy.

Q Did you get to know some of these operators?

A Right.

Q You had conversations with them about the local?

A Right.

Q Did they encourage you to make application, sir?

A Yes, they did.

Q Were they white or black, sir?

A White.

Q Do you recall their names?

A One was a fellow named George Compo, C-o-m-p-o. I believe that's the spelling. And the father -- there was a father and son there. There so many numerous fellows I can't remember all the names.

Q Did you get along well with them, sir?

A Yes, I did.

Q Did they operate cranes in the Navy Yard as well?

A Yes, they did.

Q When you first came to Local 14, with respect to any applications or otherwise, who did you talk to?

A My recollection is that I spokd to the secretary, which was a Walter Murphy.

Q Had you ever met Walter Murphy prior to 1947?

A No.

Q What did you say to Mr. Murphy and what did he say to you?

A I asked him about becoming -- how did you go about becoming a member of Local 14.

Q What did he say?

A He informed me that I had to get two members of Local 14 to vouch for me, and that's what I did.

Q Did he tell you about a license requirement?

A Yes, he did.

Q What did he say?

A He said that "Before we can even begin to consider you in here you would have to be licensed."

Q Did you at that time have a New York City license?

A I think I might have had a Jersey license at that time.

Q But not a New York City license?

A No.

Q Now, did you file an application for Local 14?

A No. I had to first take the test.

Q For the New York City license?

A Right.

Q And did you take that test?

A Right.

Q Did you pass it?

A Yes, I did.

Q Was that a written and a practical test?

A Yes, sir.

Q What did the practical test consist of, Mr. Howard?

A Well, operating different type of equipment. A clamshell, they had a derrick, had compressors, bull-dozers; the usual run of construction equipment that you probably meet in the field.

Q Now, what type of a license was issued to you by the city?

A At that time?

Q Yes, sir.

A AMPES license, any motor-driven power, except steam.

Q Did you have a steam license from New Jersey?

A Right.

Q Except for the motivation of power, that is, steam as opposed to gasoline, was there really any

difference in the type of license?

A Well, at the time I was told that you could make applications and your steam license would cover both operations.

Q Your license was issued to you by the City of New York?

A Right.

Q Do you have your license with you today?

A Yes, sir.

Q Is it in force and effect?

A Is it in effect?

Q Yes.

A Yes, sir, it is.

Q What is the renewal date on your license, Mr. Howard?

A April 7, '75.

Q And when was the last time that that license was renewed?

A Well, the expiration datemight have been April 7, '74.

Q Did you know anybody in Local 14 to sponsor you?

A I met a few fellows at the Navy Yard, yes.

Q Who were your sponsors?

A A fellow named Fred Folkes.

Q And who else?

A A fellow named Jim Pettus.

Q Were they white or black?

A They were black.

Q They had worked in the Navy Yard with you?

A Right.

Q Did any of the white fellows offer to sponsor you?

A Well, truthfully, I didn't ask them.

Q What was the procedure in those days for being admitted to membership in Local 14?

A Well, as I understand, now that I am in, they first had to go before the body, and when that order of business came up they asked for new membership. These two fellows would have to stand up and ask for permission to vouch for me, which they were given, and I had to go down before the examining board, executive board, and then the membership board.

Q Now, you appeared before the examining board, did you?

A Yes, I did.

Q Did they ask you questions?

A Yes, they did.

Q What did they ask you, sir?

A Well, what type of equipment, what type of training and, incidentally, I did go to 13 weeks in the Navy Yard when I first went in, that was a requirement; whether you had a license or not, you had to take 13 weeks of their schooling.

And I seemed to have satisfied them that I could handle certain equipment.

Q Did they send you out on any tests at all?

A The investigating?

Q Yes.

A No. They more or less relied on the men that spnsored you because those men had worked with you in the field, they probably knew; right?

Q Did Mr. Pettus and Mr. Folkes talk to the examining board in your presence?

A No.

Q Did they do that separately?

A I can't recall whether they went in there. I don't recall them going in. They may have, I can't remember when you go back that far.

Q Did you go into the examining board by yourslf?

A Yes.

Q Were there other applicants for admission at

the same time that you were applying?

A Yes, there were.

Q White or black, sir?

A They were white.

Q Now, I take it that you passed through the examining board, did you?

A Yes.

Q When you appeared before the executive board did they ask you any questions?

A Yes,they did.

Q What did they ask you, sir?

A Well, pertaining to the jobs I had worked on and where I got my experience from, things like that.

Q How long did the examination take before, first, the examining board and then the executive board?

A You mean the time lapse?

Q Yes.

A I don't think it was that long. I don't really have any recollection of time but it wasn't that long.

Maybe a week or two. I don't know. I can't remember.

Q How soon after you appeared before those bodies did you receive a book?

A After I appeared before the membership body

and the vote was taken and I was voted in, then your book was issued almost immediately.

Q Now, is that procedure still in force and effect today?

A As far as I know.

Q Do they still have a vote by the body?

A No, no more.

Q In other words, at the first meeting, if you need a sponsor, the sponsors get up and ask permission to go before the examining board?

A Right.

Q Then you appear before the executive board?

A Right.

Q And then your book is issued if you pass, isn't that correct?

A That's right.

T2

Q If you are transferring from one operating engineers' local, whether it be 14-B or one of the out-of-State locals, do you need a sponsor?

A No, not to my knowledge.

Q It is only when you have had no affiliation with any local at all?

A That is right.

Q At the time that you became a member of Local 14 were there any other black members of Local 14?

A Yes.

Q Can you tell us by name some of the people who were members at that time, sir?

A The two fellows that I mentioned, my sponsors.

Q Folks and Pettis?

A Right, oldtimers; Clark, Burwell, a fellow named-- I don't recall all of them, but I mean there was about -- I remember meeting with five or six of them. And there was some that I never met but they were members.

Q Now, did Folks have any relatives in the union?

A At one time he did. He had a brother.

Q Did you ever have an opportunity when you first became a member of Local 14 to discuss with the other blacks in the union the conditions in Local 14 at that time?

A No, I can't recall.

Q Just for the record, Mr.Howard, what is your race?

A Black.

Q Did Mr. Pettis or Mr. Folks or Mr. Clark or Mr. Burwell or Warren Jackson ever tell you that this was a discriminatory union?

A No.

Q Was there any difference between your admission to Local 14 than those experienced by white applicants, to your knowledge?

A No, none whatsoever.

Q When you started to work in Local 14's jurisdiction, Mr.Howard, who did you work for?

A Colonial Sand & Stone.

Q How did you get that job?

A Through the local.

Q What was the procedure in those days for obtaining a job?

A If I remember correctly, that was the day when, I think, I went up there kind of late, everybody left the hall. I don't know why I was there, but I went.

The phone rang and they needed a man down at the Colonial yard. Walter Murphy and Ralph Dalton was in the office and Murphy hadn't seen me come in, I was just sitting there and I heard him say, "No, we don't have anybody at

the time."

Dalton said, "Wait a minute, you got a man out there."

And he came and asked me did I have a book and I said yes. He said, "Do you want to work for Colonial?" And I said, "Yes."

And I worked for everybody.

So he told Murphy, he said, "Murph, you got a man out there." And they sent me out to Colonial to work.

Q Did Mr. Murphy ask you for any money for your job?

A No.

Q Mr. Murphy request you to pay any money for your book?

A No. That initiation fee was paid at a different time. Do you mean prior to getting my book?

Q Yes.

A No.

Q Did Mr. Murphy or any other business agent or delegate from Local 14 ever suggest to you that you had to pay money to get into Local 14?

A No way.

Q In the period of time since you have been a member of Local 14, have you ever had to pay for any jobs?

A No.

Q You went to work for Colonial. What were you operating?

A Northwest clamshell.

Q How long did the job last?

A That was a seasonal thing. You worked there during the summer months loading up the hoppers for the concrete and when they got slow, you were laid off.

Q What did you do then, sir?

A I would go back to the hall and I got another job.

Q How long did you work in the hall?

A I didn't wait too long, about a day.

Q When you went to the hall, and this I take it was around 1947, 1948?

A Yes, somewhere around there.

Q Were there many people in the hall, sir?

A At that time I don't think there was too many. There were some in there.

Q Were they white or black?

A White.

Q When the time came for assigning jobs, were you the last one to go out?

A No. I was probably the first because they called

the job out and nobody answered for it. He said, "I have a long boom crane," and nobody said he wants it. So I said I will take it. It was with a rental outfit, J.H. Welsh,and nobody wanted to work for a rental outfit. I found that out later.

Q Was that bad?

A No, just that you were maybe off a lot or would job hop a lot, one day here and one day there; all different hours. You have to get up on the road early.

Q Did you mind that, sir?

A I loved it. I stayed with it.

Q You still stayed with it today?

A Right.

Q Does it annoy you to go from one job for one day and then to another?

A I love it.

Q Why?

A You get a chance to see more, to get on other equipment.

If I went on a job and it was a machine just coming in, I was there. I could go over to the operator and say, "Show me how to run this thing." You would be surprised how much experience you can get by jumping rather than staying onone job with one machine.

Q There are some members of Local 14 who, I assume, like steady jobs, is that correct?

A That is true.

Q They prefer the long-time job?

A Right.

Q Do you think that when the job was offered -- could you have turned that job down?

A Sure, certainly. Nobody told me to say I wanted to run it. I could have just kept still and they wouldn't have made me go.

Q How long did that job last?

A I worked for 14 years, job-hopping.

Q I see. And that means that although you worked for the company there were times when you had to go back to the hall?

A Very rarely. You don't have to go back.

Q You were sent out on the job and you were transferred from one job to another by the employer, is that correct?

A No. Like the rental outfit rents the equipment. You call up that you have a specific job that you want done and you tell them what type of crane you need and the rental outfit will send you a crane. But you are not working for J.H. Welsh, you go on that man's payroll. It may be a daily

thing, it may be a thing for a week, depending. You never know.

Q But the employer liked you, didn't he?

A Evidently.

Q Who was that employer?

A These are people not owning equipment but it probably may be a rigging outfit, it could be an air-conditiong place, it could be a man that handled boilers. It could be a steel-setting outfit, it could be anybody.

The primary thing was that word would get back to your boss who owned the crane, J.H. Welsh, and I was told several times they request you to come back, but he had a policy that if you request a man he didn't like to send him because he wanted them to feel any operator he sent could do the job, which was pretty smart, I believe.

Q Now, in the 14 years that you were with the rental outfit, did you go back to the hall from time to time?

A Occasionally.

Q Were you sent out for jobs?

A I always let them understand I wasn't looking to get away from Welsh but that if he had a one-day fill-in I would take it. If they had the one day I would go on it or cover for somebody.

Q What would you do, go and tell the agent what it was you were looking for?

A They pretty well knew. When they asked the first time I explained I didn't want to leave Welsh, I liked what I was doing. But if they didn't have anybody to cover the crane, I would go. But just for the day or for a short period of time. I didn't want to leave my job.

Q Do you go to membership meetings?

A Yes, I do.

Q Do you vote?

A Yes, sure.

Q Are blacks permitted the same things that whites are at the meetings?

A Right.

Q Permitted to talk out at the meeting?

A Definitely.

Q Have you ever been a master mechanic, Mr. Howard?

A Not because I couldn't have been. I didn't want it at the time.

Q Were you ever offered the opportunity?

A Lots of times.

Q By whom?

A By all the delegates.

Q How did that come to pass, do they call you up and say, "I would like" --

A You are in the hall and the job comes up as a master mechanic. Usually, I imagine, I say I think they

favor the guys that have been in there the longest, so quite naturally I was the longest one in there and they asked me.

I said, "No, I am not ready to give up yet. I want to operate."

Q What do you mean by that?

A Well, I would rather run a crane than be a master mechanic at the time.

Q Why?

A I don't know. You know, when you like something you want to do it. I think 90 per cent of the idea of work is liking what you are doing.

Q The master mechanic makes more money.

A That isn't important, it isn't that important. It is having piece of mind and liking what you are doing, I think is more important than money.

Q So you were offered the opportunity to become a master mechanic?

A A number of times.

Q Have you recently been offered an opportunity to become a master mechanic?

A Right.

Q Are you going to take it?

A I think I will now.

Q Why?

A Because I am older. I am older and don't feel like I can cope with the situation out there in the long boom bit. It is a lot of nerve-racking.

If you have a job when you are younger, maybe you can cope with it. When you get to be 60 or better you better look to step down and take it easy.

Q Is it difficult operating those cranes?

A What do you mean by difficult?

Q Is it strenuous physically?

A Not physically; not too much physically.

Q Mentally?

A Mentally.

Q Why?

A Well, first of all, you have people that you have to watch out for. You have everybody on the job site that you are responsible for whether anybody knows it or not. When you come over them with the load they don't even look up, they are trusting you. And if anything goes wrong, there is a big mental block.

Sometimes you even sit in the seat and see things they are doing wrong and you know that you have to overcome it. It is hard.

Q Now, have you done mostly superstructure work?

A Mostly.

Q Why is that?

A I like it better, it is buildings as opposed to excavating.

Q You did excavating?

A I did excavating and piledriving, but if I had my choice I would stay on superstructures. I like it better.

Q Even though it is more nerve-racking?

A Right. You have your problems with excavation, too.

Q What are the problems involved there?

A Well, you can have upsets. You can go in a place excavating and don't know about a sub-cellar, you might wind up way down. You don't know these things. Ramps are bad sometimes. It happens.

Q Have you done road construction?

A No.

Q Why not?

A I don't like road construction.

Q Did you try it?

A Never tried it.

Q You could have operated the roller, couldn't you?

A Yes, sure.

Q Is the pay for the roller the same as it is for a

crane operator?

A It may be a few dollars' difference, less.

Q Has it been your experience with Local 14 that a lot of engineers follow certain particular types of work?

A Right.

Q As opposed to a particular job?

A Right.

Q If you do superstructure work, what types of equipment do you have to operate, Mr. Howard?

A Basically probably tower rigs, long boom rigs, heavy duty rigs, all mixed.

Q In a superstructure job, and let me put it this way: have you worked on any big superstructure jobs?

A Yes.

Q What ones?

A I worked on the Verrazano Bridge, on the World Trade Center. I worked on the Fair, the World's Fair, that is a big job.

Q Let's take the Verazzano Bridge. How many pieces of equipment were out on that particular project that were operated by 14 people?

A All the cranes was operated by 14 people, your pumps, your compressors were operated by 14.

Q How many cranes did you have operating on the Verazzano Bridge, Mr. Howard?

A Roughly, don't pinpoint it, because I wasn't on the Jersey side. But in my immediate area there may have been about 10.

Q How many compressors?

A There was a battery of them, about five. But they were in a battery. When I say a battery, one man handled all of them.

Q One man handled all five?

A Right. He gets an oiler with him.

Q How many people on the cranes?

A Two.

Q Who were they?

A The oiler and the engineer.

Q The oiler is a 15 man, is he?

A Right.

Q WWhat other pieces of equipment that 14 would operate were on the Verazzano Bridge?

A The bridge, the traveling crane up above, you had a hoist, a material hoist, they would operate that. I think -- I am not going to be positive about that spinner up there that they did the cable with, you know, the cable spinner.

Q Yes.

A I am not sure about that. They may have had their own men or we might have been up there. I don't remember.

Q Now, on the Verazzano Bridge, what percentage of equipment was licensed equipment as opposed to non-licensed equipment?

A More than half was licensed.

Q Would it be closer to 75 per cent?

A When you talk about percentage, I am not good at arithmetic, right?

Q Have you ever done any sewer work?

A Very little.

Q Have you done any sewer work in the last five years?

A No, sir.

Q Have you operated cranes in the last five years?

A Yes, sir.

Q Steadily?

A Yes, sir.

Q Do you have oilers working with you?

A Say what?

Q Do you have oilers working with you?

A Yes, sir.

Q Are they 15 men?

A Usually.

Q White or black, sir?

A Both.

Q Do you make any effort to help them to learn anything about operating the crane?

A Definitely.

Q What do you tell them, sir?

A First of all, when you get a man with you, you want to make sure that he can run because you may need a break. If he is licensed, then you insist that he learn. Everyone that I had that came to me had a license, so then if he couldn't operate you better believe he started right then to operate.

Q You mean to tell me that there are a lot of oilers in Local 15 who have licenses?

A Sure.

Q How many, sir?

A Oh, I don't know. Most of them that I go with got them.

Q Are they eligible to come into Local 14?

A Sure.

Q Why don't they, sir?

MR. DEVORKIN: I object to that.

THE COURT: I don't know how he would know.

MR. KENNEDY: These are conversations with people who are licensed, oilers who have worked with him.

MR. DEVORKIN: Nobody has mentioned any conversations.

MR. KENNEDY: You are objecting to the foundation.

THE COURT: Have you ever had any conversations with these people as to why they were satisfied to stay in 15 and not going to 14?

THE WITNESS: Were you directing the question to me, sir?

THE COURT: Yes. You say you know people, oilers, who have licenses and they are members of 15 and eligible to go into 14 and didn't do it.

Did they ever tell you why they didn't do it?

THE WITNESS: The difference of pay is so small they figure that they can stay oiling and not have that headache. When they come up there to run the crane for you they are doing you a favor, so they kept on that basis, I guess. I don't know. But they just never had the desire to change over.

Q Do you know black oilers who have had licenses who have worked with you?

A One.

Q One?

A One that has a license. I've worked with a lot of them but I didn't know whether they had licenses.

Q Who is that fellow?

A This fellow Wisdom. He was my oiler one time. We were working for Welch.

Q Is he now a member of 14?

A Right.

Q Have you ever had any other black people who you encouraged to take license examinations?

A Oh, sure.

Q Who, sir?

A Fellow named Herman Lee.

Q Is he now a member of Local 14?

A Absolutely.

Q Were you his sponsor, sir?

A No, I didn't sponsor him.

Q That's because he was a member of 15?

A No. He was not a member of 15.

Q What was he, sir?

A He was working in Todd Shipyard in Brooklyn.

Q How did you get to meet Mr. Lee?

A Well, as I told you, the rental office went all over so we went into Todd Shipyard during a spell there and, like, when you go in a yard you get to know the different men who are doing the same thing you are doing, and I got to talking to this Lee.

Q Was he a member of a union at that time, sir?

A No, no. He was a member of Todd Shipyard.

Q What was he doing for Todd Shipyard?

A He was operating a crane.

Q And that would be the same type of an operation such as 14B, is that correct, sir?

A No, no. Had nothing to do with 14B.

Q I know that, but it would be the same type of an operation, it was on private property?

A Right.

Q Didn't require a license?

A Right.

MR. DEVORKIN: Your Honor, Mr. Kennedy is leading the witness continually.

MR. KENNEDY: I am only trying to point out, your Honor, certain matters, and if Mr. Devorkin wants me to adhere to a formal procedure --

THE COURT: I don't think it's necessary.

MR. DEVORKIN: My objection is that Mr. Kennedy is pointing out certain matters, and in fact he is testifying for his own witness and leading him through.

THE COURT: Yes, but also it helps us in moving along and not having to ask 10 questions to get one answer.

MR. DEVORKIN: I am just not sure there will be an answer at the end of the 10 questions and I think there will be if Mr. Kennedy asks the questions the way he is asking them.

THE COURT: I didn't get that impression. Let's go ahead.

Q Did you have conversations with Mr. Lee?

A Yes.

Q What were they?

A We talked about -- I asked him why he worked in there and why wouldn't he come out and join our local, and he felt they weren't going to take him. And

I said, "You haven't been out, so how can you tell that they won't take you?"

Q He had reservations about being taken by the local?

A Right.

Q Did he take his license examination?

A Yes.

Q Did he pass it?

A Yes, he did.

Q Did he become a member of Local 14?

A Absolutely.

Q Did he need a sponsor?

A Yes, he did.

Q Do you know who sponsored Mr. Lee?

A Not offhand, I don't know, but they weren't black fellows.

Q They were not black?

A No, no.

Q Is Mr. Lee black?

A Yes.

Q Do you recall when Mr. Lee became a member of the union, approximately?

A At least five years, I guess.

Q Have you had conversations with Mr. Lee since

then?

A On, we talked, surely.

Q Does he have any complaints about Local 14 that you know of?

A None.

Q Since you have been a member of Local 14 have you had any occasion to recruit blacks and would you tell us when and under what circumstances?

A Well, aside from the fellow that I told you got in five years ago, I've always looked out, and if I saw a man doing a job on a construction site and I thought it was sort of pertaining to our type of thing and I thought he could qualify, I would encourage him to try to get some kind of contact with Local 15, to go out as an oiler, to break in.

Subsequently, after that, he became with this program that we have out at Kennedy --

Q Airport?

A Right.

Q What type of a program is that, sir?

A Well, that's a training program, I imagine, to familiarize members in the local union with the new type of equipment, like a refresher course. You go back there. If you, say -- like I've been away from pile-

drivers a long time and I might feel like, well, maybe I'll go back and give it a shot, so you go back there and you operate, get your hand back in, and you go.

Q Now, getting back to the recruitment, did you ever find any blacks who were interested?

A Yes.

Q When, sir?

A Well, I was working on a job in Fulton Street and Flatbush Avenue, a Con Edison job. We were doing a building there. That was in an urban renewal thing, and there was a black super on the job and he came up and he asked me about the local and how was it and was it possible to get black fellows in the job, and I told him that I had never tried hard because at my age and most of my friends were my age, they were too old, but that if he knew any young black guys that really wanted to learn the trade, if he sent them to me I would make sure that they get into the school, which he did.

Q Did he send you some blacks?

A Yes. He picked five fellows on the job. They were working on that job site. One guy was a timekeeper, two of them were carpenter's helpers and the other two guys were laborers.

Q What did you do when he sent them to you?

A I immediately called the business manager.

Q Who is that, sir?

A Tommy Nolan. And I told him about the five fellows that I had, and I asked him whether they should go through Local 15. But I also learned before that that they had a waiting list of about 600 men waiting to go to their school.

So Tommy told me that I should get in touch with Jack Stanton and take the guys down there and we would bypass going through 15, train them ourselves, and this is what I did.

I took them there, right? Now, they stayed into the program -- it's a program where you have to go every Saturday. It's free, doesn't cost you anything. The only stipulation they have for recruits is that you must call up if you are not going to attend the class because they hold out a machine for you and, quite naturally, if you don't show up the machines stand there idle.

So if you did not call up you were automatically out of the program.

Now, that goes for everybody. And these fellows were told the same thing, they understood it.

I banged it into their heads. I said, "Now, this is one of those things that they are just saying it because you, everybody, if you don't show, you don't call, you are out."

Now, they did make a mistake. They did not go the second week, and I got a call from Jack Stanton and he said, "Now, Gene, you know, we told those guys what the rules" --

MR. DEVORKIN: I object, your Honor, if that's coming in for the truth of what Mr. Stanton is telling him.

MR. KENNEDY: I'll bring Mr. Stanton in here to testify to the other half of the conversation.

THE COURT: With that representation, you can go ahead.

Q Go ahead.

A Discontinue it?

Q No. Go ahead.

A He told me that we understand the rules and regulations, and I told him yes, but he said, "I want you to find out from these fellows why they didn't make it."

I went back to the job on Monday and I talked to the super and I said, "Tell those guys not to go to lunch, come up on the roof and I want to talk to them."

And the answer that they gave me was that one

fellow had a car and it broke down and they didn't make it.

I said, "What was the matter with the phone call?"

Well, they didn't think of it.

I said, "Well, the way I look at it, no one monkey runs the show, so if you want to go to the school, regardless of what breaks down, you get there by bus, truck whatever; get there."

I called Jack up and told him what they told me, and he said, "All right, Gene, tell them to come back down to the school," which they did. They went but they never finished. I heard from him weeks later that he said they dropped out.

I don't know the fellows personally. I only met them on the job, and in my desire to help them, that's as far as I know. I don't even know their names.

MR. KENNEDY: I have no further questions of Mr. Howard.

MR. BRADY: I have no questions, your Honor.

THE COURT: Ever?

MR. BRADY: Positively.

THE COURT: Ever.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Howard, when you were working for the Jersey Central what kind of work were you doing?

A I started off there as a dock handler, like what they call a longshoreman.

Q Did you stay with that or did you do something else?

A Well, they had a program coming up, it was like at the beginning of the war, and they asked for volunteers or men who was interested in running a crane, and I was one of the interested ones and I went to school and studied, took the test over there, became an operator.

Q How long was the Jersey Central program for crane operators?

A Roughly about three months.

Q How often did it meet?

A Say what?

Q Did you have classes? Did you have classes?

A No. You were on-the-job training.

Q Were you getting paid?

A Oh, yes.

Q What rate were you being paid?

A It wasn't much. Eighty-four cents.

Q In terms of the other men on the job, what was your rate?

A Well, it was a few cents less than the operator. You got the same pay as you did, say, you were dockbuilding, right? I mean, what do you call it, longshoreman, the same pay.

Q When you say you took a test for a license, whose license was that?

A Jersey -- State of Jersey.

Q Did you belong to any union at that time?

A At that time?

Q Yes.

A You belonged to a railroad union.

Q And after you got your crane license did you belong to any union?

A Yes.

Q The same union?

A In the same place.

Q Was there a union for crane operators?

A No. Everybody belonged to the same thing.

Q Did that union require you to have a license in order to be a member of it?

A No.

Q When was it that you left working for the

Jersey Central?

A I don't know dates now.

Q Roughly?

A I didn't stay there too long. I stayed there about six or seven months, eight months, and then I went to the Navy Yard.

Q What kind of work did you do in the Navy Yard?

A I went to school, as I stated before, because I went in -- I applied for crane operation, and when I went in the Navy Yard I went to their school and studied their method, the way of doing things, and come out on the crane.

Q That was doing civilian work for the Navy? You were still a civilian?

A Right, absolutely.

Q Were all of the men doing the work that you were doing civilians?

A Right.

Q Was there a union that organized that work?

A No, not in the government.

Q Were there other blacks working in the yard?

A I can't hear you.

Q Were there other black men working in the

Navy Yard?

A Yes, certainly.

Q What kind of work were they doing?

A They were doing crane operation.

Q Were there many of them?

A When you say "many," like how many, five, ten?

Q How many men were doing crane operation in the Navy Yard?

A The whole Navy Yard?

Q Yes, sir.

A I have no idea. It was many.

Q More than a hundred?

A Crane operators, during the way? Sure.

Q In that yard?

A Oh, sure.

Q How many, if you remember, would you say were black?

A I wouldn't pinpoint it. I knew about five or six fellows.

Q I think you said that some of the men you were working with in the Navy Yard helped you get into Local 14?

A That's right.

Q And those were white men?

A Black.

Q Those were black men.

A Right.

Q And you mentioned, I believe, that some of the men in the Navy Yard had sons also working as crane operators in the Navy Yard?

A Father and son.

Q Were there many such men?

A I don't know. I happened to know these two fellows because I worked with them.

Q Did they say anything about how their sons had gotten into the union?

A No, never discussed it.

Q You said that there was a meeting with Walter Murphy about getting into Local 14?

MR. KENNEDY: I object to the characterization. That's not what the witness testified to, your Honor.

Q Was there a meeting with Walter Murphy about getting into Local 14?

A I spoke to these two fellows first before I asked him the procedure, yes.

Q And subsequently you had meeting with Walter Murphy?

A That was with Walter Murphy. I asked him how to get in.

Q And you said that you had these two men sponsor you, that you didn't ask any white men to sponsor you?

A That's right.

Q Any particular reason for that?

A Well, at that particular time, maybe I had a reason. I might have felt that inasmuch as the guys were nice enough, when it comes down to really do you a favor, maybe the answer would be no. I don't know that would have been the case but that's how I felt about it. So since I had two bona fide members in the local that they had 30 and 50 years at that time, I thought my best bet would be to ask them.

Q Do you remember when it was that you actually got into Local 14, the year?

A No. As I said, don't pinpoint me on years because time just flies with me.

Q Was it after or before you got your New York City license?

A It was after I got my New York City license.

Q How did you go about getting your New York City lciense?

A Well, I was told you had to take a test.

Q Who told you that?

A Murphy. He said, "One of the requirements to get into this local is you have to be licensed."

"Well, how do you go about getting this license?"

Q Did you say that to him?

A I probably did. That's where I probably got the information. I don't know word for word 28 years from now, I mean, but that's probably where I got the information from.

Q What did you do, if you remember now, to get that license?

A Well, I had to go through the regular procedure, go and find out when the tests would be taken, which was probably twice a year, and maybe at that particular time it was coming up, so maybe I rushed and got my application and took the test.

Q Did you do any studying for the test?

A Of course, sure.

Q On your own or with others?

A On my own.

Q You mentioned that your first job in the hall occurred when you were the only person sitting in the hall?

A That's right, because I was late getting up

there.

Q And Mr. Dalton came out and noticed you?

A He was outside the cage and Murphy was inside.

Q And a phone call came in?

A Right.

Q Before that phone call had you spoken with Mr. Murphy?

A No. I came right up the stairs and sat down. I didn't go in the office.

Q Had he come out at all?

A He didn't know I wasin there; you can't tell.

Q Did anybody know you were there at the time?

A Dalton saw me come up but he didn't say anything to me and I didn't say anything to him; just sat down.

Q Now, you said that the people that get master mechanic's jobs are usually the people that are out of work the longest?

A I did not say that.

Q That is not true?

A I didn't say had been out of work the longest. I said had been in the local the longest.

Q I see. I misunderstood you. And that

was why you would have been elibible for a master mechanic's job?

A I suppose.

T4

Q I see. You said that recently you were offered a master mechanic's job?

A That is right.

Q When was that?

A I was on this job about four months.

Q Four months ago?

A Four months now. I plan to stay where I am at.

Q When were you offered that master mechanic's job?

A I asked them for this job.

Q Are you a master mechanic now?

A I am going to be. Iasked them. I went up and asked when I went on this job. I decided, well, I think this is it. I am not going to operate any more and since the job is brand new and nobody put in a bid for it, I made up my mind thatthat is what I want to do.

Q Is there a master mechanic on that job now?

A No.

Q How many Local 14 operators are on that job?

A Just me now.

Q You mentioned that you like to do superstructure work. Are there some men in Local 14 that don't like superstructure work?

A Sure, plenty of them.

Q What kind of work do they like?

A Excavating, piledriving, backhoe, dragline, water rigs, things like that.

Q Do men specialize in one particular kind of work?

A I wouldn't say specialize. If you don't like something you avoid it, right? That is what they do. They don't like it, when the job comes up they just don't say anything. Nobody is going to make them take it.

Q Are there some men that do nothing but backhoe work?

A That is right, not because they have to, that is their choice.

Q They like to do it?

A They like to do it.

Q Are there men doing nothing but backhoe work for a long time?

A That's right.

Q Are there some men that do nothing but roller work?

A That's right.

Q Some men that do nothing but roller work a long time?

A I imagine so. I am not too familiar with roller work, I don't go on rollers.

Q Are there some men that like to do compressor

work?

A I suppose so.

Q Some men that have done compressor work for a long time?

A I don't know about how long. A compressor job is never that long.

Q They like to stay with the compressor?

A From one job to another?

Q Yes.

A It is possible.

Q Are there some men that like to work in tunnels?

A That is right. I am not one of them.

Q Why is that?

A I don't like anything over my head. I don't care about height, but nothing goes over me.

Q Are there Local 14 men that like to work in tunnels?

A Yes.

Q What kind of work do they do in tunnels?

A Run a shaft, bring them up and down, buckets up. Down there on pumps, high-pressure compressors that pump the air in. I don't go to tunnels, so I cant tell you anything about it.

Q Have you spoken to men in Local 14 that work in

tunnels?

A I guess so, but I don't think I ever discussed tunnels with them because I wasn't interested in it.

Q Mr. Howard, do you renew your license for the City every year?

A Yes, sir.

Q Why do you do that?

A That is a requirement.

Q Is it important for you to renew your license?

A I think so. So much so that if you are late they charge you, right?

Q You mentioned that school at Kennedy Airport. Do you know what kind of school that is?

A Do I know?

Q What its purpose is?

A I imagine it is to train people how to run the machines. What would the school be but a refresher course for any member in the local who wants to go back there.

Q Do non-members get into the course?

A Do they?

Q Yes.

A Sure. Non-members use it.

Q Can Local 15 men use Local 14's school?

A Yes, they do. It is in conjunction. If you know

the place, it is all one, so I don't know how you separate it. There is no fence in between, it is one big open lot circled by one fence all around in there together, 14 and 15 men.

Q So 15 men could be on 14 equipment?

A No, you got a 15 instructor that would be instructing the 15 men and you have an engineer that would be instructing the guys on the 14 equipment.

Q But could a Local 15 man learn how to use a piece of 14 equipment at this school?

A I don't know what you are trying to say. Could he what?

Q Does the school allow Local 15 men to learn on 14 equipment?

A He would have to enroll just anybody else. You just can't arbitrarily say, "I am going across here and run that.

Q But the rules of the school as you understand them, are they such that Local 15 men can get into the 14 school?

A I think so.

Q Are there men that work on permit for Local 14?

A Yes.

Q What is a permit man?

A Usually when you are busy and they have to go out, we usually draw from 15 or else we go to the other locals.

But if they are licensed men that don't want to change over, haven't changed over, they go out on permission on our work. That is what we are talking about permit.

Q How frequently does this occur, if you know?

A If it is busy and --

MR. KENNEDY: I object, he is not a business agent. He doesn't make the assignments.

THE COURT: If he knows.

MR. KENNEDY: All right.

Q You have been in the hall, haven't you?

A No, not that much. When I have been in the hall it would be just a short time when I am in there, so I wouldn't be able to tell you how they work it.

Q You have been on various jobs, haven't you?

A Yes.

Q Have you ever seen any 15 men working as permit on 14 equipment?

A Sure.

Q Did you ever see any non-union men working as permit men with Local 14?

A Non-union?

Q Non-union.

A No license, no nothing?

Q Doesn't belong to any union in New York City.

A Never seen it.

Q Do you know why that is?

A First of all, if you came on any union job they check you for your book.

Q If you don't have a book?

A Well, they would call the delegate. It would be up to him to make the decision what is going to be done.

Q The delegate would have to give permission for the non-union man to work?

A I imagine so. I never had that situation but the man on the job wouldn't make the decision. You just report what you find, that is all.

Q Have you ever seen any non-union men working Local 14 equipment?

A No.

Q You mentioned that you helped get five black fellows in the Local 14 school?

A That is right.

Q When was that?

A Approximately two years ago as a guess.

Q Would it have been after Christmas of 1972?

A Don't pin me down on dates, I don't know. I said about two years ago.

Q Do you remember whether it was the winter or

summer?

A It was in the summer.

Q Have you ever been in a situation where you have gotten a day's work and then waited a couple of weeks and gotten another day's work?

A No.

Q Have you ever talked to men that have?

A Yes.

Q Do they like that?

A Do they like it?

Q Yes, sir.

A Nobody likes to be out of work.

Q Are there many jobs for Local 14 men that last a long time?

A You have no way of knowing. The weather could knock you right out of the box. You could have a job problem, water condition, anything. You start up a job, that doesn't mean you are going to end there.

Q When a new job starts that requires operating engineers, how do the men get selected for that new job?

A It could be two ways. It might be working for the company such as I was at the rental outfit, they might have called my equipment to come in and do the job.

Q What would be the other way?

A They call the hall for a man, they will get a man from the hall.

Q After you helped these five fellows out at the Local 14 school, did you ever help any other fellows get out there?

A No -- you are talking about black fellows?

Q Yes.

A Because I have helped whites get out there.

Q You have helped whites?

A Yes.

Q Were they members of Local 14?

A 15, a surveyor.

Q What happened?

A He decided -- he thought he would like to try something else and asked me if I could see what I could do and I said sure.

Q What happened?

A I called up and they accepted him.

Q Who did you call, one of the delegates?

A He was the director.

Q Jack Stanton?

A Right.

Q Did the fellow get in the school?

A Yes.

Q Do you know if he has a Local 14 book now?

A He never went for the book, just got his license, but he didn't change over. But he could. He works for Cranes, Incorporated, a surveyor. Bob Rossa.

Q You mentioned, I think, that there are no longer membership votes for persons seeking to get into Local 14?

A Right.

Q Do you know why that was stopped?

A No.

Q Do you know when it was stopped?

A About four or five years, I guess.

MR. DEVORKIN: I have nothing further, your Honor.

REDIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Kennedy,have you ever been out to the school at JFK?

A Yes.

Q How many times?

A About a dozen times or more.

Q What brought you out there, sir?

A Well, one thing,I worked out there putting the school up, putting the equipment together and, naturally, you go back to see how it is going.

Q Have you ever seen 15 men operating 14 equipment

out there with your own eyes?

A I really don't know. When I am out there they are all in the union one way or the other. If they are over on our equipment I have no way of knowing whether they are 15 or 14 unless I know the guy personally.

MR. KENNEDY: I have no further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: I am going to have to interrupt in a few minutes because of an arraignment, but why don't we go ahead with the next witness? They don't have the prisoner here.

MR. KENNEDY: I only have one more witness, I am sorry,I didn't realize it was going to go this quickly.

THE COURT: That is all right. I assure you I have other things to do.

(Pause.)

MR. KENNEDY: Could we put a short stipulation on the record?

It is hereby stipulated and agreed by and between the government and Local 14 that the race of the witnesses by Local 14 has been black for each and every one of them.

THE COURT: I think you already asked them.

MR. KENNEDY: I think I forgot one of them.

MR. DEVORKIN: All right.

THE COURT: We will take a short recess now.

(Recess.)

MR. KENNEDY: Your Honor, we would like to call Mr. Weitz.

S A U L W E I T Z, called as a witness by defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Weitz, by whom are you employed?

A Department of Personnel, City of New York.

Q In what capacity, sir?

A My Civil Service title is administrative personnel examiner. I am the assistant chief of the Office of Engineering Examining.

Q What are your duties, sir?

A I am responsible for the three engineering examination divisions, one of which is the engineering division itself, engineering skill trades and licenses examining division, which is responsible for the issuing, examining of licenses for certain trades in the City of New York.

Q How long have you held that position, sir?

A Oh, approximately two years, three years.

Q Prior to that time were you in the same department?

Q Were your duties different at that time?

A Yes. Prior to about two years ago I was only an examiner and I worked within the skill trades examination division.

Q And how long have you been in the licensing department, sir?

A Since about 1956.

Q And during the period 1956 to date are you familiar with the examinations that are given for these licenses?

A Yes, sir.

Q First of all, could I ask you to identify the types of licenses that your department gives examinations for?

A Well, they are principally the ones which involve safety, where a problem might occur if an ineffic ient operator could cause damage eitner to personnel or to structures.

For example, the master electrician license we give, high pressure boiler operating engineer, hoisting machine operator, master rigger -- this sort of thing, where somebody can get hurt.

Q Now, with respect to the operating engineers other than the high pressure boiler, do you segregate the

types of licenses that you give or issue?

A What do you mean by "segregate the types"?

Q Is there such a thing as an A license?

A No. That's the Department of Buildings that segregates it that way.

Q But do you give the examination for what is denominated as the A license?

A Yes.

Q Have you recently given such an examination?

A The last examination was given back in -- let's see. This is November -- back approximately in March.

Q How often is that examination given, sir?

A About twice a year.

Q What type of equipment does, we will call it, the A examination cover?

A The practical tests you are talking about?

Q Yes.

A The practical tests we use three pieces of equipment. We use a crane, we use a tractor-type equipment, either a bulldozer or front-end loader, something with traction on it, and we use a compressor.

Q Why do you include in the practical examination a compressor?

A Well, essentially part of the examination

is the knowledge of mechanical equipment as such, and rather than hold up operation on a crane, which is an expensive piece of equipment and needed desperately at the asphalt plant where we work, we ask similar questions or questions pertaining to pertinent matter on the compressor. It's easier to work with, it's stationary, it's in the yard and nobody is around it.

Q Are those pieces of equipment job-related?

A Yes.

Q How do you determine that?

A Over the years we have asked people about the equipment. We have gone out in the field at the various city sites. Our men themselves have construction experience. We get the manuals from the manufacturers and from these we determine what should or should not be on the examination.

We get complaints from people that take the tests and we work all of these together.

Q What about the written examination for the A license?

A What do you mean by what about it?

Q Who prepares it, sir?

A The Department of Personnel.

Q Do you have any connection with the preparation

of the examination?

A Yes, sir, it is under my jurisdiction.

Q What is the basis for the preparation of the questions on that examination?

A Essentially, the same as the basis for the preparation of the practical. We go through -- find out what a man should know to be able to operate all the varied types of equipment that involved in a hoisting machine. Then we go out and get the manufacturing bulletins. We go out to the field to see the city jobs. We have easy access to them. Our men themselves have experience and see what the men know who have to operate the equipment; and, again, we hear from the people who take the text.

Q Again, in your opinion, are the examinations job-related?

A Yes.

MR. DEVORKIN: I object to that. There is no foundation for this man's opinion.

MR. KENNEDY: There certainly is. He prepares the examination for the City of New York.

THE COURT: I would assume that it is job related.

MR. DEVORKIN: To which job are we talking

about? Has he criterion validated the test, job validated the test? Has he done any studies of the test to see whether it correlates performance on the job?

MR. KENNEDY: He just so testified that he examines manuals, goes around to construction sites.

MR. DEVORKIN: Is he offered as an expert? If so, I want to voir dire him.

THE COURT: Voir dire him.

VOIR DIRE EXAMINATION

BY MR. DEVORKIN:

Q Do you have a copy of the examination with you?

A No, sir.

Q Can you provide a copy of it?

A They are unreleased examinations.

Q Does that mean you will not provide a copy of the examination?

A Unless I get a court order.

Q If you had a court order would you provide it?

A I follow court orders.

MR. DEVORKIN: I would ask for a court order.

THE COURT: An old one.

Q The last written examination you gave.

A If I have a court order. I mean you have to give it to me.

THE COURT: You submit an order and I'll sign it. Give the purpose.

Q Mr. Weitz, have you ever worked on a construction site?

A Yes.

Q Where?

A All over the city.

Q Doing what kind of work?

A As an engineer.

Q What kind of engineer's work?

A Civil engineer.

Q Have you ever been an operating engineer?

A No, sir.

Q Have you ever operated a crane?

A No.

Q Have you ever operated a bulldozer?

A No.

Q Have you ever operated a compressor?

A No.

Q Have you ever worked for a manufacturer of a crane?

A No.

Q Have you ever worked for a manufacturer of a compressor?

A No.

Q Have you ever worked for the manufacturer of a bulldozer?

A No.

Q Have you ever taught men how to operate a crane?

A No.

Q Have you ever taught men how to operate a bulldozer?

A No.

Q Have you ever taught men how to operate a compressor?

A No.

Q Specifically, what literature in the field, if any, have you read about training men to operate cranes, bulldozers or compressors?

A Specifically, literature training men to operate bulldozers, cranes, not specifically other than the manuals themselves. For example,moving the earth and things like that, which tell what a piece of equipment has to do. I don't know of any book put out as such which says: this is what you do train a man to

operate a crane.

Q I hand you a copy of Plaintiff's Exhibit 97 in evidence and ask you if you have ever seen anything like that before?

MR. KENNEDY: Does that deal with New York City, your Honor, that document?

MR. DEVORKIN: It is the international union's training program which they supply upon request to anybody.

A No, I've never seen this.

Q Have you examined anything like that before?

THE COURT: Are you criticizing the exams that the city gives for this? The city is not under the control of the Engineers, I might point out.

MR. DEVORKIN: I understand. My point is not that they city does not have the right to give the exam but the only relevance of this testimony is that that exam is job-related to membership in this union or performance on the job.

MR. KENNEDY: That's not what I offer it for.

MR. DEVORKIN: He is offering this man as an expert for job-relatedness, and I am examining his qualifications.

THE COURT: I don't follow you.

In order to practice a trade you have to have a license. What's the use of having a union if you can't practice your trade.

Now, if your quarrel is with the City of New York and its licensing -- we will go ahead with the examination and won't ask him whether it is job-related.

MR. DEVORKIN: May I ask a couple of more questions, your Honor?

THE COURT: No.

You are off on a tangent.

MR. DEVORKIN: I thought Mr. Kennedy was offering the man for a different purpose.

THE COURT: I don't know what he is offering him for.

MR. DEVORKIN: May I just inquire whether he offers him to testify --

THE COURT: Can you explain what you are calling this man for?

MR. KENNEDY: Yes. I was asking Mr. Weitz, in the preparation of the examination, whether it was job-related. And by "job-related" I meant that the examination was to test the person in connection with the duties to which he was to perform on that particular

machine. That's my understanding of job-related.

MR. DEVORKIN: Well, (a), I would object to it for the following reasons: First of all, I would have liked to inquire of the man if he knows what men are supposed to do on job sites.

Second of all, that's a legal conclusion, whether this test is job-related. He can't answer the ultimate question for the court.

Mr. Kennedy has the burden of showing that the test is job-related or is related, legally justifiable, as a requirement for membership in this union. This man can't testify to the ultimate decision of this court.

THE COURT: I haven't heard the union mentioned yet in this examination.

MR. DEVORKIN: Your Honor, the only relevance the license has is the fact that the union requires the men to join it. Otherwise we wouldn't be talking about licenses in this case.

THE COURT: It requires the men to join it that have a license and they can't practice the trade without a license.

MR. DEVORKIN: That is not true and this man is not qualified to say otherwise because he does not

administer for the Department of Buildings the licensing provision, he only gives the exam.

MR. KENNEDY: I think that the government does not really understand what the offer is being made for.

You see, the City of New York requires a license for the operation of various types of equipment. The types of equipment covered by that particular license are operated by the members of the union that I represent. Thus, those people are required when they operate those pieces of equipment to have a city license.

Now, in the preparation of the examination the City of New York presumably -- I have not met Mr. Weitz before -- I asked him whether or not in the preparation of the thing he considered the job relationship.

THE COURT: Not the union membership.

MR. KENNEDY: Not the union membership.

MR. DEVORKIN: Your Honor, this man can testify what he does, what the Department of Licensing does. Mr. Kennedy's statement is totally false. The equipment that Local 14 operates is not all required to have a license in this city. And he is not qualified to testify to what equipment is, for which it is necessary to have a license.

Rollers don't need a license to operate in this city. Compressors don't need a license to operate in this city. Certain types of hoist machinery don't need a license to operate in this city.

If he wants to call the man from the Department of Buildings to testify to that, fine, but this man can only testify to what his department does, not whether his --

THE COURT: It is just an example. Let's go ahead with the questions.

T6

Q Do you prepare any written examination?

A Yes.

THE COURT: I thought we were trying to find out what the facts are.

MR. KENNEDY: It is interesting to note that the government --

MR. DEVORKIN: I would like to get --

MR. KENNEDY: Mr. Devorkin, will you wait while I am speaking? You will have your turn.

I am sorry, your Honor. I apologize.

Your Honor, it is interesting to note that I called the City people and not the United States Government, to show what the requirements were because I thought that your Honor expressed an interest at one time in the requirements. Additionally --

THE COURT: Let us go ahead.

MR. KENNEDY: Thank you, your Honor.

Q Does the written examination consist of essays or short questions?

A Short questions.

Q How many questions, sir?

A 70.

Q What is the basis for the preparation of those questions?

A As I said, what we consider, items that the man who operates the equipment should know.

Q All right. Mr. Weitz, who administers the written examination?

A The Department of Personnel.

Q Are there any members of Local 14 connected with the Department of Personnel?

A No.

Q Do they proctor the examination when it is given?

A They don't proctor, no.

Q Who proctors it?

A The Department of Personnel personnel.

Q Who grades the examination?

A The Department of Personnel.

Q Any members of Local 14 that you know of in the Department of Personnel?

A No.

Q Now, with respect to the administration of the practical examination for an A license, who administers that examination?

A Department of Personnel.

Q Where is it administered?

A Queens Asphalt Plant, in Queens.

Q Who grades that examination?

A Department of Personnel.

Q Any members of Local 14 or Local 15 connected with that?

A I don't know whether the operator on the crane at the time, the safety man is, but he does not, as I say, we run the examination, we have a safety man on the crane.

Q When you say a safety man, what do you mean?

A He is the man that must watch the candidates in case the crane runs wild or the candidate does something wrong, he has got to stop the operation.

Q If I can put it in the proper perspective, you have a candidate who is unlicensed as an operator attempting to prove himself on the crane?

A Right.

Q You have a professional engineer from the Department of Personnel who grades the examination?

A Two.

Q Neither one of whom can actually run a crane, isn't that correct?

A That is right.

Q And the Local 14 man is out there as a safety precaution, is that correct?

A Right.

Q Does he have anything to say with respect to

the grading of the examination?

A Nothing.

Q Now, is there an examination for what is known as a B license?

A Yes.

Q Is it both written and practical?

A No, it is only practical.

Q How many times a year is that examination given?

A We have only given it once.

Q Only once?

A Right.

Q What does the B license cover?

A It covers cranes with a boom over 200 feet in length.

Q When for the first time did the City of New York give that examination?

A About two months ago.

Q Have the results of that examination been revealed?

A I believe so.

Q And is that an endorsement on an A license?

A That is right.

Q Who grades that examination?

A There are three men out there, one of my men and

two men who, I would assume, were experienced operators and therefore probably did belong to Local 14. Whether they still do or not, I don't know.

Q This triumvirate decides whether or not the operator is capable of operating that crane?

A Right.

Q Do they all have equal say?

A I would say so, yes.

Q Now, do you have anything to do with respect to the C license?

A No.

Q That is another license, is it not?

A A different license.

Q Who administers that examination?

A The Department of Buildings.

Q Mr. Weitz, I show you this document which I would mark as Local 14 Exhibit B.

xx (Defendant Local 14 Exhibit B marked for identification.)

Q Can you identify that document, sir?

A That is an application for a hoisting machine operator's license.

Q Is there any writing on the reverse side of that document?

A A notice of advertisement.

Q That contains some of the requirements, does it, for taking that examination?

A Right.

MR. KENNEDY: I would like to offer it in evidence.

MR. DEVORKIN: No objection.

MR. BRADY: No objection.

xx (Defendant Local 15 Exhibit B for identification received in evidence.)

Q Mr. Weitz, in the period of time you have been with the Department has the City of New York removed any of the requirements for the taking of that particular examination for a license?

A Yes, the citizenship.

Q There was a period of time when it was required to be a citizen of the United States?

A Yes.

Q Do you recall when that provision was removed?

A Not offhand, no.

Q I show you this document and ask you whether or not you can identify it?

xx (Defendant Local 14 Exhibit C marked for identification.)

A It is the card that is filed with the application where we keep our own records on it and the results of the examination; and another card where the candidate gets his results and, of course, there is a card to appear for the written and a card to appear for the practical.

MR. KENNEDY: I would like to have that offered in evidence.

MR. DEVORKIN: No objection.

MR. BRADY: No objection.

xx (Defendant Local 14 Exhibit C received in evidence.)

Q Mr. Weitz, does your department give a written and practical examination for portable high-pressure boilers?

A Yes.

Q Who prepares that examination?

A We do.

Q How many questions are on that examination?

A Until the examination that is coming up, there were 70 questions.

Q 70questions?

A Yes.

Q What is the basis for the preparation for that particular examination?

A Essentially the same basis as for the preparation

of the hoisting machine operator except it is different equipment. It is steam equipment.

Q What about the practical examination?

A We do that, too.

Q What is the basis for that examination?

A Again, what the man needs to know to do the practical job.

MR. KENNEDY: I have no further questions of the witness.

THE COURT: We will take a short recess.

MR. DEVORKIN: I have no questions of the witness.

THE COURT: All right, you are excused, then.

(Witness excused.)

(Discussion off the record.)

THE COURT: We will have to start at 10.15 tomorrow. I have another matter.

(Adjourned to October 4, 1974, at 10.15 A.M.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
William E. Fulcher	1774	1807	1824	
Stanley Clifford Drayton, Jr.	1828	1860		
Eugene Howard	1885			

EXHIBIT INDEX

Defendant Local 14	Identification	In Evidence
B	1957	1958
C	1958	1959

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

vs.

LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.

New York, October 4, 1974,

10:15 a.m.

Trial resumed.

- -

MR. KENNEDY: I would like to call Mr. Trevor Wisdom.

T R E V O R W I S D O M, called as a witness by defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Wisdom, how old are you?

A Thirty-five.

Q And are you married?

A Yes.

Q Do you have any children?

A Four.

Q Will you state for the record what your race is?

A I am black, born in Jamaica.

Q Are you testifying here under subpoena?

A Yes.

Q Mr. Wisdom, are you a member of the union?

A Yes, I am.

Q What local, sir?

A Local 14.

Q That's the Operating Engineers, is it?

A Right.

Q When did you become a member of Local 14?

A 1970.

Q Are you licensed to operate equipment in the City of New York?

A Yes, I am.

Q When did you obtain your license for the first time?

A I think it was back in '65.

Q 1965?

A Yes.

Q Now, you made an application to take an examination from the city, did you?

A Yes, I did.

Q Do you recall how much experience was required in order to take that examination at that time?

A I think at that time it was about a four-year experience on or around a crane.

Q And you had to be 21 years old?

A Yes.

Q Were you a citizen of the United States at that time?

A Yes, I was.

Q Do you recall whether or not there was a citizenship requirement in the application at the time you took it?

A I don't remember. Possibly there was. I don't remember for sure.

Q What type of license do you have?

A I have a Class B, the full boom license.

Q That's an endorsement on your original license, is it, or is it a separate license?

A It's an endorsement on the original license, allowing me to run the unlimited boom.

Q When did you obtain the B license?

A When it came out. In other words, I was running a long boom at the time, and then when the license came out I automatically got it.

Q Do you recall what year that was?

A Maybe 1970, 1971 -- I am not sure.

Q Did you have to take any examination for the endorsement?

A No. I think that came out and I was already running a long boom crane at that time so I didn't need to take a test.

Q Either written or practical?

A Either, no.

Q When and where for the first time did you obtain your experience in the operation of heavy equipment?

A In Local 15.

Q And prior to any experience with Local 15 have you ever had any experience with heavy equipment?

A No, nothing to speak of.

Q There came a time, did there, when you went down to Local 15's hall?

A Yes.

Q How did you find out about Local 15's hall?

A I asked people around in the different jobs and they told me where the hall was and I just went down to find out how to go to work.

Q Had you been working on construction sites at the time, sir?

A On and off as a laborer and helper and so

forth and so on.

Q Do you recall the year that you first went down to local 15's hall?

A About '61 or '62.

Q And was that the hall down on 15th Street?

A Yes, sir.

Q And when you went in there who did you speak to?

A John Murphy.

Q And what did you say to him and what did he say to you?

A I went down. In fact, I went in a suit because I didn't anything, you know, about the hall and I asked him, "How do you go to work out of the hall?" and he says, "Well, you shape the hall. Union men have preference. You know if they need somebody and they don't have a union man to send out, then you will go out if you have the capabilities."

Q Did you sit in the hall?

A No, I didn't want to go out in a suit. I came back the next Monday and I went out to work that same day.

Q In other words, you came there like on a Friday?

A I went on a Monday and I came the following Monday.

Q And what type of a job were you sent to?

A I was sent out to Norwood on a 45-ton truck crane as an oiler.

Q How long did you work as an oiler on that job?

A Nine months.

Q And would you tell us, what is it that an oiler does?

A Well, he drives the crane and maintains it. In other words, takes care of all the equipment and gets the coffee.

Q Had you ever had any experience as an oiler before?

A No, that was the first time.

Q Who tells you wnat to do when you get on the job?

A The engineer.

Q He would be a Local 14 man?

A Yes.

Q And from the practical standpoint what is it that the engineer tells the oiler to do?

A He tells him how to set the crane up, really, how he wants it set up, you know, the basic work of the

crane, what he wants, how he wants it and that type of thing.

Q Does he tell you when to grease it or oil it?

A No. That's the oiler's job. The only time, you know, I as an operator, would tell the oiler to do anything is when I want the crane set in a certain spot, I'll say I want it set up this way, made level, and he'll do it. But as far as the regular maintenance of the crane, that's his job.

Q During the nine months you were working as an oiler on the job, was the same operator on the machinery at all times?

A Yes.

Q Do you recall his name?

A Johnny Hale.

Q Was he white or black?

A White.

Q Did you at any time operate the equipment in an actual working condition?

A Yes.

Q How did that come about?

A He said, "Do you want to run?"

No, he basically showed me the operations of the crane and then, you know, when we weren't doing anything,

really, and at a later time when we had to set some things, reinforcing steel, which wasn't too complicated, he asked me if I wanted to run and I ran.

Q Did you work on the machine from time to time during your lunch hour?

A Yes.

Q And was the operator there at that time watching you?

A Sometimes he was; sometimes he wasn't. Depended if we were in a position where he could bring lunch back or if he had to go out for lunch.

Q Now, after your job as an oiler -- I assume that that job terminated?

A Yes.

Q You weren't laid off or anything, were you?

A My job finished up.

Q Did you go back to the hall?

A Yes.

Q Did you have any conversations with any of the Local 15 business agents?

A I came back home, I finished up. "Is there anything?" you know, looking for work again.

Q Now, at any time did you ask Mr. Murphy for a book in Local 15?

A No, not that.

Q Did you shape the hall?

A Yes.

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Q How long, sir?

A The first day I went back to work.

Q Where did you go?

A Hickey Concrete, maintenance man.

Q Have you had any prior experience in maintenance work?

A Yes.

Q Where?

A I used to design and build machinery for Duralite. I was head designer.

Q What was your educational background in that regard?

A I was a graduate machinist, tool and die maker, welder.

Q Where had you obtained that experience?

A High school. I took courses in high school.

Q What school?

A Alexander Hamilton.

Q Did you to to school after that?

A Yes, I went to CCNY, two years.

Q What courses did you take there?

A Mechanical Engineering.

Q When you went to the job as maintenance man, what were the duties that you had to perform?

A Started out rebuilding this concrete plant. In other words, changing them over to a computer-operating machinery, so we had to take all the old machinery out and set up an IBM plant where you could put a punch card in and the whole plant would run. We had to build all those things.

Q How long did that job last?

A About two years.

Q Did that come a time when that terminated?

A Yes.

Q What year did that job terminate, do you recall?

A No, I don't know exactly.

Q It would have been some time in 1963 or 1964?

A More than 1964 or 1965.

Q At any time during that two-year and nine-month period did you obtain a book in Local 15?

A Yes.

Q When?

A I would say I was there about six months and the shop steward says you should apply for a book while you are here and he made all the arrangements and the next thing I knew he gave me a book -- he said I had to godown and get the book.

Q This was a branch of Local 15?

A Yes. That was the maintenance section of 15.

Q Is that 15-C, Mr. Wisdom?

A Right.

Q So your association at that time with Local 15 had been approximately 15 months, is that correct?

A Yes, approximately.

Q Now, when the two-year job terminated where did you go then?

A I went to work as an oiler for Welsh, J.H. Welsh.

Q How did you get that job, sir?

A Through the hall.

Q Did you go down personally?

A I spoke to Tommy McGuire at one of the union meetings because I had gotten my engineer's license and I told him I needed some more experience on the cranes. So he transferred me to 15, straight 15 local.

Q Do you recall when that was, approximately?

A 1964, 1965.

Q You had obtained your license when?

A About that time, the same time I got my license.

Q When you took the City license exam you had to have four years' experience. What four years did you put down?

A The four years I worked as machinist on equipment and the time I worked as an oiler and the time I worked as a maintenance man in 15-C.

Q The City accepted that, did they?

A Yes.

Q You spoke to Mr. McGuire at a union meeting. Did you have to go down to the hall again to get that job or did he just tell you where to go, if you recall?

A I think he just told me where to go. I am not sure -- no, I think I went back to the hall and he sent me out.

Q That was with Welsh?

A Yes.

Q How long did you work as an oiler?

A With Welsh?

Q Yes.

A I would say about nine months.

Q Were your duties the same with Welsh as they had been on your first job?

A Yes.

Q Was the operator of the crane the same throughout that period of time?

A No.

Q In other words, there were different ones?

A Yes.

Q Were they white or black?

A Both. I worked for black operators and white operators.

Q Who were the black operators that you worked with, sir?

A I don't recall hisname now. It is a long time. I don't remember his name. I remember I worked for one operator who was black.

Q A Local 14 man?

A Yes.

Q Did there come a time when you applied for membership in Local 14?

A Yes.

Q When was that?

A It was about 1968.

Q How was that done, sir?

A You put your name on a list.

Q With whom?

A Local 14.

Q Right.

A As they need men they draw from the list.

Q Did you go down to Local 14 with a group of people?

A Yes.

Q White or black?

A White.

Q How soon after you put your application in did you get your book?

A I was on the list almost two years, I would say.

Q Did you inquire as to the reason for the length of time between your application and the issuance?

A Not directly to the local,because at that time the business was pretty slow and they just weren't taking any men.

Q There came a time when you appeared at the Local 14 for admission to membership?

A Yes.

Q Were the people that appeared there with you the same people that put their applications in two years before?

A Some of them were, yes.

Q What was their color?

A White.

Q What committee, if any, did you appear before?

A I had to go before the examining board first.

Q Did you need a sponsor at all?

A No. When I came in you didn't need sponsors.

Q How many members were on the examining board, approximately?

A Maybe five or six.

Q Did they ask you questions?

A One fellow asked me what kind of equipment I could run, and the other guy says, "Forget it, I know he can run."

Q Who was that?

A I think it was Jack Stanton, because he was on one of the jobs alongside me and I was running as an oiler and he knew I could run.

Q The Welsh job?

A No, after Welsh I went to work for Bay Crane Service and he was out on one ofthe rental rigs.

Q By whom are you employed today?

A Bay Crane Service, but I am rented out to the Manshou.

Q So when you became a member of 14 the first time you were working for Bay Crane as an oiler?

A Right.

Q In the time between when you first put the application in and the time your book was issued, did you continue working as an oiler?

A Yes.

Q When you got your book you continued to work for Bay Crane, is that correct?

A Yes.

Q Did you work as an oiler or as an operator?

A Operator.

Q How was that arranged? Did you speak to the employer?

A He said, "As soon as you get your book you have a job." He cleared it with the hall and I went to work.

Q Could you tell us how the rental business operates?

A We get rented out with the equipment. In other words, if somebody wants a crane, they call up and hire the crane and we go out, take the crane out to the job and get hired also.

So as the job finishes, we bring the crane back and go out to the next job. The oiler and the engineer goes with it. The oiler drives the contraption.

Q Who pays your salary?

A The contractor that we are working for.

Q Bay Crane pays you nothing?

A Right.

Q They supply just the equipment including the oiler and the operator?

A Right.

Q How are you assigned to a particular job by Bay Crane?

A Usually you stay on the one machine most of the time but there are certain equipment that have very, very long booms, so because I have the B license I go on the equipment with a long boom more than the smaller equipment.

Q Are there oilers in your shop?

A Yes.

Q Are they Local 15 men?

A Yes, all of them.

Q Do you know whether or not any of them hold licenses?

A Yes.

Q How many, sir?

A I would say we have about five or six oilers with licenses.

Q Are they able to operate cranes?

A Yes.

Q Have they ever attempted to transfer into Local 14?

A No. Some have in previous years but the ones now haven't put in their transfer application.

Q Is there a difference in the pay rate between an oiler and an operator?

A Sometimes.

Q What do you mean sometimes?

A The oiler goes on a 40-hour week. We have to work with the trades. In other words, if we go on the job and there is only 35 hours, we only get 35 hours.

While the oiler gets a straight 40 hours because that is the arrangement with his local. So I end up sometimes getting the same as the oiler.

Q I see. In other words, although your base rate of pay may be greater than the oiler's, he is averaging five hours a week more than you?

A Right.

THE COURT: Or he can average five?

Q Yes, he can average five hours?

A Right.

Q Do you receive the same rate of pay as white operators?

A Yes.

Q Is there any difference in frince benefits between what a black operator gets and a white operator gets?

A No. It's the same rate. It's you know, a set rate.

Q When was the last time you went to the Local 14 hiring hall?

A I don't even remember.

Q How long have you been with Bay Crane?

A Ten years.

Q Are the jobs that you have been sent out on -- are they short-term jobs or long-term jobs?

A With Bay?

Q Yes.

A It depends. Sometimes I work five different contractors in a week.

Q Is that right?

A Yes.

Q In other words, you may be sent out on a one-day job?

A And you come back and the next day another job and the next day another job.

Q What's the longest job that you have had, Mr. Wisdom?

A With Bay?

Q Yes.

A Maybe eight months. I think that was the longest I ever had.

Q Do you have any relatives in Local 14?

A No.

Q Do you have any relatives in Local 15?

A Yes.

Q Who, sir?

A My brother-in-law.

Q And is he in 15 or one of the branches?

A He is in 15.

Q Are you able to tell us the circumstances as to how he became a member of Local 15?

A Yes. I asked the delegate's permission and I and him went out with one of the fellows that I knew on a piece of equipment, showed him how to run it, and he stayed with that guy until he was able to run, you know, good enough to go out on his own, and he went to the hall and shaped and he went out to work.

Q Do you recall how soon after he first came in contact with Local 15 he received his book?

A I would say about five, six months.

Q Does he want to become a member of Local 14?

A Maybe sooner or later. Right now he is doing

all right where he is.

Q What type of equipment is he operating?

A Cherrypickers and backhoes, loaders.

Q At any time, Mr. Wisdom, have you been requested by any of the business agents to pay them for any of the jobs that you have received?

A No.

Q Did you ever have to pay anything under the table to the union for your book?

A No.

Q During the course of the time that you have been a member of Local 14 have you spoken to any of the oilers with respect to becoming members of Local 14?

A Yes.

Q Have you tried to encourage them? That's what I mean.

A Yes.

Q What do you do, Mr. Wisdom?

A If I see a guy is a good operator I'l say, "You know, why don't you transfer, if you are running all the time," and some guys don't want to and some guys do.

Q Why do some people not want to? What do they tell you about it?

A They don't want the responsibility or the ulcers.

MR. GLASSMAN: Objection, your Honor. I would like to have particular names.

MR. KENNEDY: Surely, you are entitled to that, Mr. Glassman.

Q Do you recall the name of the oiler that had a discussion with you?

A Yes. John Chasano.

Q Is he white or black?

A White.

Q Does he have a license?

A Yes.

Q Has he had his license for some time?

A Yes.

Q By "license" I mean a city license to operate equipment.

A Yes.

Q Anybody else that you recall in that category?

A Vinnie. Vinnie doesn't want to transfer either. His name is Vincent Bernardo.

Q Is he a member of Local 15?

A Yes.

Q Is he licensed?

A Yes.

Q Have you had conversations with him about transferring into 14?

MR. GLASSMAN: Objection, your Honor. I object to the whole line of questioning. If the defendants would like to call the individuals as to their intentions I think that is more proper. This is really hearsay as to what this witness thinks of another person.

THE COURT: We had an awful lot of hearsay from the government on the same basis, where you gave the names and all that, and I think it cuts both ways.

Q Go ahead.

A He is licensed but I don't think he wants a transfer.

Q Now, have you had conversations with oilers who have transferred into 14?

A Yes.

Q Who, sir?

A Joe Provenzano transferred in.

I think that is one of the oilers from our barn, anyway, that transferred in. There were a lot of other guys that we worked with that transferred, but from our barn I think it was just Joe.

Q In your experience with 14 have you been discriminated against in any fashion at all by any member of the union?

A No.

Q Have you had any occasion to call upon the union, at all, to protect your rights?

A Yes.

Q On how many occasions?

A I think twice.

Q When and where did these situations take place?

A Once was for Consolidated Stone, and another time was for Cosantino Marble Works.

Q What happened with Consolidated Stone?

A They wanted me to make lifts, you know, that were beyond my jurisdiction. They wanted me to make lifts for another contract where they weren't going to bet paid and I wasn't. And I called and my delegate backed me and I didn't have to make them.

Q Who was the delegate?

A Scoop Walker.

Q That was a job in Queens then, is that correct?

A Yes.

Q What about the other situation?

A The other situation was, they wanted to knock my rig off. We had two rigs on the job and I didn't get along with the guy, the foreman on the job, so they wanted to knock my rig off rather than the other machine, and I called -- I was in Manhattan -- and I don't remember who I spoke to -- Messinger -- and he says, "No dice, the other rig goes." So I stayed.

Q Who operated the other rig?

A Hugh Martin, Hughie Martin?

Q White or black, sir?

A White.

MR. KENNEDY: I have no further questions at this time.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Wisdom, when you first went to the Local 15 hall did you have any friends or relatives in Local 15 at that time?

A No.

Q And had you ever met John Murphy before?

A No.

Q I presume you told Mr. Murphy about your background?

A Yes.

Q And did Mr. Murphy ask you for any payment of moneys to be referred to a job?

A No.

Q And in the first job he referred you to lasted about nine months, is that right?

A Yes.

Q You worked for a while under the jurisdiction of Local 15 but you didn't have a book?

A Right.

Q And during that period of time did you receive the full union rate of pay?

A Yes.

Q And your brother-in-law, what is his name?

A Israel Negron, N-e-g-r-o-n.

Q Is he black?

A No. He is Puerto Rican.

Q Has Mr. Negron made any complaints to you about the treatment he has received in Local 15?

A No, he hasn't.

Q For the period of time that you were a member of Local 15 and working under 15's jurisdiction, were you discriminated against by the union because of your race, in any way?

A No.

MR. BRADY: No further questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Wisdom, you said you were born in Jamaica?

A Yes.

Q When did you come to the United States?

A About 1950.

Q How old were you then?

A Approximately eight or nine.

Q And are you a citizen of the United States?

A Yes.

Q Approximately what year did you transfer from Local 15C to Local 15?

A Maybe around '68.

Q How did you actually make that transfer?

A I told a delegate that I wanted a transfer because I had my license and I needed more experience on the crane.

Q Why did you actually want to make the transfer?

A Because I wanted to be an oiler.

Q Did anyone tell you that as a member of 15C you could not be referred out as an oiler?

A As 15C?

Q As a 15C member.

A No, but I think it's -- 15C is just a shop local.

Q But when you had your 15C book did anyone tell you that you could not be referred out of the hall on oiling jobs as long as you had a 15C book?

MR. KENNEDY: Your Honor, he just answered that question.

THE COURT: Well, he can answer it again.

A No.

Q When you joined Local 15 were you immediately sent out as an oiler on the first jog?

A Yes.

Q Do you know about how many men were in the hall at that time?

A Maybe 30.

Q Do you know if they were sitting in Local 15's hall or Local 14's hall?

A No. There is no way of telling at that time.

Q Is that a combined total that you were giving us?

A Yes.

Q Is there at present any way of telling who is sitting in the 15 hall or in the 14 hall?

A I haven't been to the new hall.

Q During what period of time had you been to the old hall?

A My total time in the hall was maybe about three or four days I've been in the local.

Q What year was that?

A I originally w nt there when I went back after finishing up with Norwood. I went back out with Hickey -- '68, and the initial period when I first went into the local.

Q You first went to the local back in 1961 or '62, is that correct?

A Yes.

Q And during or between that period and 1968 was there any time when you could tell the difference between Local 14 and Local 15 men sitting in the hall?

A Only by talking to them. In other words, you don't sit on separate sides. Everybody just sits inthe hall.

Q In your experience when you were in Local 15 working as an oiler, did all aoilers get operating experience?

A If they wanted it.

Q How would they actually get the operating

experience?

A You asked the operator, tell him you want to run.

Q It would depend on the individual operator you worked with, is that correct?

A Yes.

Q Was there any rule of thumb for the amount of seat time that you would get while you were an oiler, an average in a day?

A No, nto really. Usually it depends on the job. In other words, sometimes the contractor might complain. If you don't operate as well as the operator, you are not going at the same speed as the operator would, and sometimes the contractor would say, "I don't want the oiler running," something like that, and then it would govern it. But in my situation, once I became able to run the machine as good as the operator, the operator would just go shopping or do what the hell he wants.

Q Do you have oilers who have worked for you since you have become a 14 man who are also pretty good?

A Yes.

Q Do you allow them to have time to operate when you are not there as well?

A Yes. Not really -- I can't leave the

job. I myself don't. Because if anything ever happens, you know, I want to be there. But I'll walk away from the crane and leave them on the seat. I feel it gives him more confidence, rather than having me sitting right over his shoulder.

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Q Do you have other people, other 14 men go shopping or leave a job if a competent oiler is there?

A Yes. They can go, some of these jobs are really big, but the other jobs, they do whatever they want to do.

Q When you started working for Local 15 do you know approximately how many black operators there were at that time?

A No.

Q Do you know if there were many black oilers at that time?

A I don't recall how many were in the local at that time. There were other blacks, but I don't know.

Q Do you recall if there was any black oilers specifically?

A No, I don't. I wouldn't say for sure.

Q After you got your license I believe you stated that you were sent out on a job with a crane by Mr. McGuire?

A Yes.

Q When was that, if you remember?

A I would say 1968.

Q What were you actually doing on that job?

A I was working for a rental outfit and driving

the crane to the job, setting it up and bringing it back in, maintaining it.

Q Were you actually operating the crane during that job?

A No, just on and off. I had an engineer running the crane and I was the oiler. I brought it out but I also got experience on the crane.

Q Before you actually got in Local 14 anybody else in either Local 14 or 15 who sent you out on a job working with a crane other than Mr. McGuire?

A No. Mr. McGuire sent me out as an oiler. I never went out on 14 jobs until I got my book in 14.

Q Did you ever during that period ask anyone whether you could be referred out on permit from 14?

A No.

Q Any particular reason you didn't ask?

A No. I was working as an oiler all through that time. I was never out of work.

Q You had never actually gotten a formal job as an operator until you actually joined 14, is that right?

A Right.

Q You said there was a list for Local 14 membership that you signed, is that correct?

A Yes. It was referred to as a list. I think

it went by numbers, so you were like No. 100 and so forth and so on.

As they needed men the list would be now lower and lower and they took men in that way.

Q Do you know how many men were actually on that list?

A I would presume it was like probably over a hundred.

Q Were you given a number at that time, if you know?

A I think I was like close to 100.

Q Do you know how long the list is now?

A No, I don't.

Q Who actually kept the list?

A The local.

Q Any particular delegate?

A No.

Q Do you know the number of whites or blacks on the list at that time?

A No.

Q When you signed up on the list what questions were you asked?

MR. KENNEDY: I don't understand that question, signed upon the list?

MR. GLASSMAN: List for membership. Mr. Wisdom testified he signed up on a list for membership in Local 14. I will rephrase the question.

Q At the time you signed up on this list did any union officer of Local 14 ask you any particular questions as far as your signing up?

A Yes, ask you what you can run.

Q What did you tell them at that time?

A The different cranes I could run.

Q How many different cranes had you actually operated at that time, what kinds of cranes?

A In numbers or just --

Q Names.

A Digging machines, concrete machines, steel machines, everything out of the barn, everything but derricks.

Q When you say a digging machine, what do you mean?

A A machine with a clamshell bucket.

Q When you say a concrete machine, what do you mean?

A Long boom, pouring concrete; and setting steel, likeworking with the ironworkers.

Q Is it fair to say you had been sent out to be an oiler on all these kinds of machinery at some time in

the past?

A We were on almost every machine that was -- except on a cat machine, during the period of time I was an oiler.

Q But you had not actually been sent out as an operator per se?

A No. I was an oiler on all these different machines and I ran them.

Q When you were before the examining board I think you testified that Jack Stanton said he knew you could run?

A Right.

Q On what jobs, if you know, had Jack Stanton seen you operate?

A I was working for Walacha, Walacha in Coney Island, putting up one of the projects and he was on an adjoining job.

Q What kind of equipment did you operate on that job?

A Long boom link belt.

Q Were you an oiler on that job?

A Yes.

Q Was that when you first got to know Jack Stanton, on that job?

A I didn't really get to know him. He was on the

other side of the job running, but, you know --

Q Before you got into the union had you actually seen him on those jobs?

A Yes.

Q What jobs?

A When you say -- specific jobs I don't know, but I saw him around.

Q Do you know what kind of equipment you were operating on those jobs?

A Probably a long boom link belt.

Q As an oiler again?

A Yes.

Q Your present job, is that with Bay Crane?

A Yes. I am working for Manshou through Bay Crane.

Q You say there are some oilers who have licenses in the present shop where you are working?

A Yes.

Q About how many are there, do you know?

A I would say five or six.

Q To your knowledge do these five or six all have licenses?

A Yes.

Q Do you know how long they have had their

licenses?

A Some have had their license longer than I. I know Johnny Chusano. Most of the other guys have it a shorter time than me, but Doug Dobish has a license.

Q Any black oilers who have licenses on that job?

A No.

Q You say there were some oilers with licenses who worked for you on other jobs who have since become members of Local 14, is that correct?

A Yes, -- they weren't with me.

Q How many men, do you know?

A One guy transferred into 14.

Q Do you know his name?

A That was Joe Provinzano.

Q Was he white or black?

A White.

Q Do you know if an oiler with a license can be sent out by Local 14 as an operator?

A I think in times when the business is really busy probably he could.

Q Is it fair to say you have been steadily employed with Bay Crane recently?

A Yes.

Q Do you feel you have a good relationship with

the company?

A Yes.

Q Is it fair to say that in the future you hope they will keep you on?

A Yes.

MR. GLASSMAN: I have no further questions of this witness.

MR. KENNEDY: I have no further questions.

THE COURT: You are excused.

(Witness excused.)

MR. KENNEDY: Your Honor, may we have a five-minute recess? One of my witnesses just came in.

THE COURT: All right.

MR. KENNEDY: Thank you, sir.

(Recess.)

MR. KENNEDY: Your Honor, I am sorry to be redundant about some of the witnesses but I am trying to demonstrate the various ways in which people come into Local 14 and the sources, and that's why it is taking a little bit longer.

Mr. Forbes, please.

H E R M A S F O R B E S, called as a witness by defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Forbes, where were you born?

A I was born in Colombia, South America.

Q When did you first come to this country?

A I came to this country in June of 1956.

Q Prior to 1956 had you had any experience in operating heavy equipment?

A Yes, I did.

Q Where did you obtain that experience?

A In Colombia.

Q What type of equipment were you operating

A I operated the -- a variety of type, different; clamshell bucket, drag line, pile drivers and the like, the hoist boom, cranes and --

Q What was the longest type of boom that you had operated in South America?

A 110 feet.

Q Were you employed by a company in South America?

A Yes. I worked for Raymond International in South America.

Q Mr. Forbes, would you state for the record, what is your race?

A My race, Spanish.

Q Now, when you came here in 1956 were you employed by Raymond?

A No, I wasn't employed by Raymond when I came here. I came on my own. But no sooner I came here I registered with Raymond at Raymond's office at 140 Cedar Street.

Q That is the New York affiliate of Raymond International, is that correct?

A That's correct.

Q Was there any work available for you at that time?

A Not here in the city, but they had jobs overseas to which they sent me. My first assignment was Caracas -- no; Maracaibo, Venezuela.

A When did you go on that job?

Q On that job I went in September of '56.

Q When in 1956 did you first arrive here? What month?

A In June.

Q Between June of 1956 and September of 1956 --

A Between that period of time there was a contractor on a project in the Bronx and I went over to ask him for a job and he sent me over to one of the machines he had working over at Convent Avenue and I met -- to test me out.

I met the operator over there who was on the machine and he turned the machine over to me and he saw my performance and he told me he would take me down to Local 14 the following day and recommend me.

Q Now, let me ask you this: Who was the contractor?

A I just can't think of the name at this time. You know, it's quite a long time ago.

Q Yes, I understand that, Mr. Forbes.

A I know it's an Italian name, but it was a big contractor doing the project there on Caldwell Avenue.

Q What type of equipment did he test you out on?

A On a Bucyrus 64B or 68B -- I am sorry. 68B.

Q Do you remember who the operator was?

A I don't remember his name.

Q Was he a Local 14 man?

A He was a Local 14 man.

Q And you say he took you down to the Local 14 hall?

A He took me down the following day to Local 14 and introduced me to the delegates. Billy Wade was one of them.

Q William Wade?

A William Wade, yes.

Q Did you have a conversation with him?

A Yes. Billy Wade asked me if I had a license and I told him no, I didn't, and he said, "Well, one of the requirements to be admitted into Local 14 is that you have a city license. But,"he said, "under the circumstances I can send you on permits when I have jobs available until you acquire the license."

Q And did you go out on permits, sir?

A I did.

Q On how many jobs? Can you recall?

A Well, I'll tell you, different jobs, on a number of jobs. Well, the first job that I went out

on without a license was M. Parisi & Son.

Q Do you remember where that job was?

A That job was over at Idlewild. They were making the jet strip for the jet planes.

Q How long did that job last?

A Well, there is no telling how long that job would have lasted if I had stayed on it, but I got a call from Raymond to go to Venezuela, so I called Billy and asked him to send me an operator to take over the job because it was my choosing to go to Venezuela rather than staying on that job.

Q Who did you work for in Venezuela?

A I worked for Raymond International.

Q Again, I worked several places in Venezuela. That job, that particular job, in September, was at Maracaibo but --

Q How long did it last?

A Well, that job lasted a year.

Q Then where did you go from Maracaibo?

A Then I came back to New York and I was sent to Jamaica, British West Indies.

Q By Raymond?

A By Raymond, yes.

Q And what type of equipment were you operating

in Maracaibo?

A I was operating a steam derrick.

Q When you went to Jamaica what type of equipment did you operate?

A Again, it was a roller, steam roller rig.

Q How long did the job last in Jamaica?

A The job in Jamaica lasted a month and a half, but just the last day that that job I was on I got a phone call from the New York office to get that plane in the afternoon and come back to New York, get my papers fixed up to go back to Caracas, Venezuela.

Q And how long did that job last?

A Well, that job lasted until the election down there, and they didn't want us to stay down there during the election so they brought me back to New York.

Q When was that, Mr. Forbes?

A That was '58, '58, I think; '57 or '58.

Q And what did you do at that time when you returned to New York?

A Well, when I returned to New York I went back to the local, and while I was here waiting, at that time Raymond didn't have anything else so I went back down to the local and they sent me -- Billy sent me out again.

Q Where?

A Tufano Contracting Engineers.

Q Where was that job, sir?

A That job again was over at the same, Idlewild.

Q How long did the job last?

A Well, again Raymond called me again to go back to Venezuela, and so again I had to, I called Billy and asked him to replace me again because I chose to go with Raymond again.

Q And where did you go for Raymond?

A This time I went to Caracas. I went to Caracas again. I was working out at the new hippodrome there in Caracas.

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Q How long did that job last?

A That job lasted for a year.

Q Did you then return to New York?

A Then I returned to New York and soon after I came back Raymond called me again and wanted me to go back to Venezuela, but it is -- it is in the Orinoco River this time, they were building a big double-decker pier for Phillips Petroleum Company.

Q How long did that job last?

A That was a situation where I came home and had to go right back, because by the time I got home somebody got sick and I had to go back over there and relieve him.

Q Did there come a time when you took an examination for a City license?

A Yes.

Q When was that, sir?

A That was in the early sixties, 1961, but it is hard to keep track of the time.

Q Do you have a City license?

A I do have.

Q Is it in force and effect?

A Yes.

Q Have you renewed it?

A Yes.

Q When did you renew your license?

A I last renewed my license February 25 of this year.

Q 1974?

A 1974.

Q Did you at any time make application for membership in Local 14?

A Yes.

Q When was that?

A Well, I applied for membership in Local 14 soon after I got my license, but, at that time things were pretty -- construction was pretty slow in New York City and Dillon was the business manager and he told me if I went before the membership, very likely I would be turned down because there were so many members out of work that they would probably wouldn't vote me.

A new member has to go before the membership and it is the membership who vote you into the local.

Q Or they did at that time?

A Yes. So he advised me not to do it now because it would be very likely I would be turned down but that when things picked up, he would advise me when to go for membership.

Q Did he?

A He did. Soon after I got back from Vietnam in 1968 -- I put two years in Vietnam, 1966 to 1968 -- and when I got back in 1968 I was called down to Local 14 and he told me it was time to become a member if I still wanted to become a member in the local.

Q Did you say yes?

A Definitely.

Q Did you need any sponsors?

A Yes. I needed two sponsors, two crane operators that knew me and could say that I was qualified for the type of work.

Q Do you recall, Mr. Forbes, who those operators were?

A One of them is Richard Nolan and the other one is William Rogers.

Q Are they white?

A Yes, they are.

Q How soon after you were called down did you appear before the examining board?

A About a week later.

Q Did they ask you questions?

A Yes.

Q What kind of questions did they ask you?

A Well, related to the kind of work that I did

and the kind of equipment I operated and the companies for whom I had worked; this type of question.

Q How long did they question you?

A Approximately 15, 20 minutes. I don't think it is longer than that.

Q How soon after you appeared before the examining committee did you get your book?

A Well, right there and then after the questioning, if I recall, I was asked to pay so much for the admission.

Q Do you recall how much you did have to pay?

A I think it was $495, in that neighborhood.

Q Did they explain to you what that money was for?

A Yes, admission fee plus monthly dues.

Q You became a member of Local 14 in 1968?

A November, 1968, yes.

Q Since 1968 have you gone down to the hiring hall from time to time?

A No, because of the fact that simultaneously I was called for a City job in the City of New York, Department of Sanitation, as a crane engine man.

Q That was in 1968?

A That was in 1968.

Q Are you presently employed?

A I am.

Q By whom?

A By the City of New York.

Q Operating what type of equipment?

A Right now I am operating a bridge crane at the incinerator, but normally I am on a land fill, a dragline, Northwest dragline.

Q At any time, Mr. Forbes, since you have been a mumber of Local 14, has the union in any way discriminated against you?

A Not to my knowledge.

MR. KENNEDY: I have no further questions, your Honor.

MR. BRADY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Forbes, before you came to the United States in 1956, how long had you operated heavy equipment in South America?

A Since 1938.

Q What kind of equipment was that?

A Well, Bucyrus -- the name of the machine?

Q Yes.

A Bucyrus, Link Belt, Insley -- some of these

names --

Q Was it similar to the kinds of equipment you found in the United States?

A Yes, very similar.

Q Did you find your experience in South America as an operator useful for operating equipment in the United States?

A Very much so.

Q When Mr. Wade sent you out on permit that first time, how long did you stay on the job?

A As I said, he sent me out on the job with M. Parisi & Son and there is no telling how long the job could have lasted, but because of the fact I worked for Raymond prior to that job, and Raymond wanted to send me overseas, so I chose to go overseas and I abandoned the job.

Q How long had you been with Parisi before you went back to Raymond?

A Well, talking about June to September.

Q Were you operating a crane for Parisi?

A Yes.

Q What kind of crane?

A I was on a dragline.

Q Do you remember how long a boom it had?

A About a 60-foot boom.

Q Did you have a New York City license at that time?

A No, I didn't.

Q Do you know why you called Mr. Wade to send a replacement for you?

A I beg your pardon?

Q Do you know why you called Mr. Wade to send a replacement operator?

A Yes. Because I didn't want to leave the job without having the job covered, so I told him that I had chosen to go overseas with Raymond and I would like him to send somebody to take ov the job because I didn't want to leave the machine without an operator.

Q When you came back to the United States again and went back to Local 14 for a job they sent you to Tufano Contractors?

A Yes.

Q How long did you stay with them?

A I will tell you -- we are talking about 18 years ago.

Q Just roughly speaking, if you remember.

A Well, it is possible I could have been on this job for a month or so.

Q Were you on permit from Local 14 at that time?

A Permit from Local 14.

Q What kind of equipment were you operating for Tufano?

A Again, a dragline, but the names of the machines I just can't think of. But Tufano and Parisi used the same machine.

Q Did you operate that kind of machinery before in South America?

A That particular type, no. I hadn't operated that particular type.

Q Did you find it difficult to switch to this?

A No, it isn't. It is not really.

Q Is it easy?

A It is a question of just getting used from one machine to another.

Q How long did it take you to get used to it?

A A couple of hours.

Q Did you have a license from New York City when you worked for Tufano?

A No.

Q You called Mr. Wade to replace you again?

A Yes.

Q Covering your job?

A Yes. Well, I always got my job through Mr.

Wade. I never called anybody else, I never tried anybody else. I only spoke to him.

Q Besides those two jobs before you got your City license, did Local 14 send you out on permit to any other jobs?

A Yes.

Q Which jobs were those?

A The name of the company is what I can't remember at this time.

Q What kind of work was it?

A Truck crane, clamshell bucket.

Q Do you know how long that job lasted?

A Again, it is hard to say. I don't really remember at this time.

Q Would it be more than a month?

A Yes.

Q What other job besides those three jobs now?

A I had other jobs.

Q Again from Local 14?

A Yes.

Q Operating cranes?

A Yes.

Q Can you estimate how many jobs you might have had besides the ones you just mentioned as a permit man?

A Yes, I worked other jobs like Brookfield Construction Company. I was sent to this job from Local 14.

Q Again on permit?

A On permit, yes.

Q Did that job last more than a month?

A Yes.

Q Did you have a City license when you went on that job?

A No, these jobs I did not have a City license yet.

Q You got your license in 1961?

A 1962.

Q 1962?

A Yes.

Q How long have you been back in the States permanently before 1962?

A Well, I came back -- the last trip I made overseas, I came back July 4, 1961.

Q Between then and the time you got your license was Local 14 still sending you out on permit?

A Yes.

Q How did you go out getting your license?

A Well, I found out that I had to take a test -- first of all, I had to file an application with the City

of New York, which I did, put in all the experiences and kind of machines I operated and sent it downtown with a $10 fee.

Q Before 1961 did anybody ever tell you about applying for a City of New York license, how you went about doing it?

A The first day Billy Wade told me that that was the procedure.

Q When Mr. Dillon told you he didn't think the membership would vote you in at that time, did he put your name on any kind of list?

A Very likely it must be, because I was called when I got back from Vietnam.

Q In 1968?

A In 1968.

Q He told you that about not getting voted in in 1962 or 1961?

A Because, see --

Q Just the date, that is all, 1961 or 1962 he told you that?

THE COURT: He didn't get the license until 1962.

A It was 1962. After I had my license, and I approached Mr. Dillon, he said, "Well, you know what it looks like here now. There are plenty of men out of

work and if we take you before the membership,very likely they will not vote you in." So he said --

Q Were you working on permit when you applied to Local 14 at that time?

A Yes.

Q Since you received your license from the City of New York in 1962, have you renewed it each year?

A Every year.

Q When did you get sent to Vietnam?

A In 1966.

Q What did you do between 1962 and 1966 for work?

A 1962 and 1966?

Q Yes.

A Whatever came up, whatever jobs were available.

Q Were you working as a crane operator?

A I was working as a crane operator.

Q Was Local 14 sending you out on permit?

A Yes, on permit. Whenever there were jobs available, you know.

Q What kind of cranes were you operating between 1962 and '66?

A Well, I was on a steam pile driver for Raymond International.

Q In New York City?

A Yes, in New York City, down at Seagirt Boulevard and 19th Street in Far Rockaway.

Q How long were you on that job?

A I was on that job -- well, in other words, that job finished but I still stayed with them and went up to -- under the Throggs Neck Bridge, there was an expansion on that Fort Schuyler.

Q Did any of the people you were working for at any time ever complain about the kind of work you were doing?

A Not to my knowledge.

Q Were you working fairly steadily between 1962 and 1966?

A Well, there was nothing really steady. Because even the membership didn't have anything too steady.

Q Did you have a job more than you didn't have a job, would you say?

A Well, at least I couldn't say more than, but I could at least, I survived.

Q How long did you work for New York City?

A New York City, five years.

Q What is your rate of pay for New York City as a crane operator?

A Well, it's -- how should I put it now? Suppose I tell you how much I make in two weeks.

Q Fine.

A $823.

MR. DEVORKIN: Nothing further, your Honor.

REDIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Forbes, when you worked for Parisi, was

that out at the airport?

A At the airport.

Q Did anybody ever ask you for your license out there?

A Well, yes. This is a routine, you know. An operator, any time an operator is operating a machine that I am in doubt that he doesn't have a license, it's my responsibility to challenge him, so I was challenged.

Q By whom?

A By another operator.

Q Did you produce a license?

A I couldn't produce a license but I told him I was sent out by Billy Wade, so he accepted that. He accepted that.

Q Now, the Tufano job, was that at JFK?

A Yes.

Q Were you ever challenged out there?

A No, not on the Tufano job.

Q Did any inspectors come around and ask you if you had a license?

A No.

Q Where was the Brookfield job?

A That was in Brooklyn.

Q Whereabouts, sir?

A Again, it's hard at this -- you see, I have a notation of everything, but I never -- I don't have it with me.

Q Now, who told you where to go to apply for your license and how to do it?

A Billy Wade.

Q When was that, sir?

A Well, that was early '56.

MR. KENNEDY: Thank you.

I have no further questions.

THE COURT: You are excused. Thank you, Mr. Forbes.

THE WITNESS: You are welcome.

(Witness excused.)

MR. KENNEDY: I would like to call Mr. Reardon to the stand.

A L A N J. R E A R D O N, called as a witness by defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Reardon, by whom are you employed?

A The firm of Doran, Colleran, O'Hara & Dunne.

Q Are you licensed to practice in the State of

New Uork?

A Yes, sir, I am.

Q When were you licensed, sir?

A 1970.

Q Were you admitted to practice in this court?

A Yes, I was.

Q When, sir.

A June of 1974.

MR. KENNEDY: May I see Government's Exhibit 88.

Q Mr. Reardon, I show you this document and ask you if you can identify it?

A Yes, I can.

Q Did you prepare that document, sir?

A In conjunction with you and Mr. Brady of our office, after consultation with the United States Attorney's Office.

Q Would you tell us about the conversations with the United States Attorney's Office?

A We were preparing for this trial and we had received a long list of potential witnesses,or witnesses, from the United States Attorney's Office some time prior to August, 1974, and we had had no success in obtaining very much pretrial disclosure in this case with

respect to plaintiff's allegations so a request was made --

MR. DEVORKIN: I object to that as a characterization.

THE COURT: What is this witness called for?

MR. KENNEDY: Your Honor, the government saw fit to produce Mr. Joquin, who testified that he spoke to Mr. Reardon in the morning, that Mr. John Murphy, the business agent, came to see him only five or 10 minutes after the telephone call and the next day the job was shut down. And the implication, as I saw it at the time, was that Mr. Reardon telephoned Local 15's business delegates, advised them that Mr. Joquin was going to testify for the government and that he was thereafter fired, and I am putting Mr. Reardon on the stand in order to rebut that testimony.

MR. DEVORKIN: That wasn't the implication of Mr. Joquin's testimony. But, in any event, the statement Mr. Reardon just made both as a characterization and as to its relevancy, I object to it.

THE COURT: Let's just limit it to this particular incident.

MR. KENNEDY: All right.

THE COURT: I don't think you need to go into

it, but if you want to, all right.

Q Did you have any telephone conversations with Mr. Joquin?

A Yes, I did.

Q Do you recall when, sir?

A It was in early September. I recall it was in midmorning. My secretary -- I returned from being out of the office. My secretary advised me that he had called and that he would return my call -- his call again -- and he did and I spoke to him in midmorning. And he stands out for the very simple reason I received three calls that I can recall in response to this letter. One was from Mr. Joquin and he said, "I get suicide jobs, that's my complaint."

Q That was his complaint?

A That's why he stands out particularly. And, again, he testified to that here. I was present when he testified and this "suicide" came up again, and it rang a bell.

Q How long did the telephone conversation last?

A Couldn't have been more than five minutes, ten minutes maximum.

Q Between that telephone conversation and today

have you ever spoken on the telephone with any business agents or delegates of Local 15?

A I may hsve in that when I called our client in the morning, a Local 15 delegate may pick up, and I will say give me X business agent, and they switch me over to a 14 man. But other than saying who I am and what I want, that's it.

Q Did you ever discuss with any Local 15 delegate the fact that Mr. Joquin was going to testify?

A Never. I never met any of them prior to the start of this action.

Q Did you ever have any conversations with Mr. Brady concerning Mr. Joquin?

A Yes, I did.

Q How long after the telephone conversation?

A Two to three days.

Q And what did you tell him?

A I told him that in response to the letters that we had sent out, I had two or three phone calls, one from Mr. Joquin and another from a Mr. Dwyer, whose name was on the list, who I considered almost insane from the responses I had gotten from him. He had no connection to any union, or at least he wouldn't tell me that he did.

MR. KENNEDY: No further questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Reardon, did you get a list from the government in the middle of June, 1974, a list of names that the government considered as potential --

THE COURT: I thought we didn't want to go into this and now you are going to go into it. I steered him away from it just to go to this incident.

MR. DEVORKIN: I am just laying a groundwork for another question. I don't care whether we gave the list or not.

THE COURT: It is something that I exluded at your own request and why should you go into it.

MR. DEVORKIN: Can I make Mr. Reardon my own witness?

THE COURT: Do anything you want, but don't come hopping up and objecting to something and then make that the main basis of your examination.

Go ahead.

Q You received a list of witnesses the government thought --

A I know we received it. I can't say exactly when. Things come in and they are filed automatically

and I don't review them when we receive them.

Q Might it have been in June?

A Could have been.

Q Did you give that list of delegates to Local 14?

A No, I didn't. No, I didn't.

Q Mr. Brady received the same list, didn't he?

A I don't know. I would assume he did.

MR. DEVORKIN: Nothing further.

(Witness excused.)

MR. KENNEDY: Your Honor, I have several other witnesses under subpoena and I had thought they would be here by now, and in fact they should be here between maybe 1 o'clock and 2, if they are delayed some place.

THE COURT: You don't have any more witnesses.

How many more do you have altogether?

The thing is I have a hearing at 2 o'clock, which is unfortunate because it could go on for a half hour. It could go on for two hours, if the people have their way.

MR. KENNEDY: Your Honor, I will have three witnesses here. I don't think that they will be too

long. I think we can finish them all this afternoon, and then I will have no more than three witnesses on Monday.

MR. DEVORKIN: Your Honor, in terms of your own scheduling and the request you made to us yesterday, I would prefer to sit until 5 o'clock as often as we could so that we could finish the case before we have to go on to that other case.

THE COURT: Yes, I am prepared to sit next week until 5 o'clock, and I think counsel ought to be prepared to do that. This is not the only case that I have though.

MR. KENNEDY: I understand that, your Honor.

MR. DEVORKIN: And then Local 15, I would assume, will begin the case on Monday, so they will be prepared for that.

THE COURT: Yes, he has plenty of witnesses, and I don't care how many witnesses you have but let's see if we can get a date --

MR. BRADY: Your Honor, if I might mention one thing at this time, I'll be prepared Monday with plenty of witnesses. I'll be prepared through the week.

On Tuesday two matters came up in my office for next Tuesday, the 8th. Both of the matters I am supposed to handle. However, I am not going to. One is an NLRB hearing in the 29th Region, which is Brooklyn, which my partner will handle for me. The other is a conference at the 2nd Region of the NLRB, which is directly across the street. That conference is at 2 o'clock on October 8th, at which time my partner will be taking care of a hearing for me in Brooklyn, and I just wanted the opportunity to be over there at 2 for about an hour, however we can work that out. I am quite willing to take that as my lunch hour, if that is acceptable.

THE COURT: We can work with that. I understand that you hve the same problem that the court has and this is not the only matter, but I am giving this matter priority.

Then we will have to adjourn until 2:30, I guess.

THE COURT: Incidentally, I am somewhat concerned about these schools that are operating around here. I picked up the paper and it says, "Earn big dollars, learn to be a bulldozer and heavy equipment operator. Hundreds of men in demand now.

Train in your spare time. Worldwide job placement help. American School, Morristown, Indiana."

"Construction, heavy equipment operator. Learn to operate bulldozers, cranes, backhoes, scrapers," et cetera. "Approved for veterans and civilians. Financial and placement assistance. Universal, Miami, Florida. Call" so-and-so.

Now we are going to get people into the industry--certainly I don't know--from what I've heard so far these schools don't seem to be qualifying people even to take the licensing exams, and maybe this is something that should concern us.

(Luncheon recess.)

AFTERNOON SESSION

2.30 P.M.

MR. KENNEDY: Mr. Herman Lee.

HERMAN LEE, called as a witness on behalf of the defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Lee, how old are you?

A 52.

Q Are you married?

A Yes.

Q Any children?

A No.

Q Are you a member of a local?

A Yes.

Q What local?

A Local 14, Operating Engineers.

Q How long have you been a member, sir?

A Since 1968.

Q Are you licensed to operate equipment by the City of New York?

A Yes, sir.

Q What kind of license do you have?

A AMPES, any motive power except steam, but unlimited license, otherwise no restrictions on the license.

Q Does it have any endorsements on it?

Do you know what I mean by endorsements?

A Yes, I do, but you clear it up for me a little I would appreciate it.

Q Do you have an A license?

A I have a B license. I had an A and I moved up to B.

Q All right. That means you can operate cranes with a boom over 200 feet?

A That is right, sir.

Q When did you get your A license originally?

A I think it is the 7th or 8th issue, so it should be about eight years.

Q Do you renew it every year?

A I do.

Q And is your current license effective? Have you renewed your present license?

A Yes.

Q What was your renewal date, do you know?

A Six months ago.

Q When did you get your B endorsement on your license, approximately?

A I had it about four years now.

Q Four years?

A Yes.

Q Prior to your becoming a member of Local 14, had you had any experience in operating heavy equipment?

A Yes.

Q When for the first time and where, sir?

A Philadelphia Navy Yard, about 1942.

Q What did you do in the Philadelphia Navy Yard?

A I was a helper in the boiler shop and then I would go around and run cranes and they made me a crane man.

Q How did you learn to operate cranes?

A I asked fellows questions and sneaked on cranes sometimes.

Q How much experience did you have operating cranes in the Philadephia Navy Yard?

A About 18 months.

Q Did you think that you were a qualified operator of a crane after 18 months?

A No.

Q Why not, Mr. Lee?

A It was a very limited amount of experience that I got there. The cranes that I ran weren't like the cranes we have on the street here.

Q They were not?

A No. They had some, but I didn't get to them. wasn't experienced with them.

Q What did you do, ask the operator if you could work on the crane and things like that?

A Yes, I would.

Q Did there come a time when you left the Philadelphia Navy Yard?

A Yes.

Q When?

A I went into Service.

Q When was that?

A 1944, 1945.

Q What service were you in?

A Marines.

Q Did you operate any heavy equipment?

A No.

Q When did you get out of the Marine Corps?

A I was only there for about a year.

Q Were you discharged?

A Yes, medical discharge.

Q When you were discharged in 1945, what did you do then?

A I went into show business.

Q Show business?

A Yes.

Q That's quite a departure from heavy equipment, isn't it? How long were you in show business, Mr. Lee?

A Stay there until four or five years, and I came out of show business and tried this thing again what I do now.

Q Do you know when that was, when you returned to heavy equipment?

A What year?

Q Yes.

A I believe 1948, 1949, 1950.

Q Who did you go to work for?

A I went to the Todd Shipyard in Brooklyn and I went as a helper, but they gave me a chance to around equipment.

Q What did a helper do at Todd Shipyard?

A I was oiling machinery and doing repair work on it and working anywhere that they let me work so long as I could learn something.

Q Did you have any personal experience operating heavy equipment? Did you ever operate a crane there?

A I sneaked on it again.

Q And how long did you remain in Todd Shipyard?

A Well, I began to run after that.

Q When did you begin to run?

A Let me make it clear that I was running without a title certain equipment that I could handle that equipment that I handled in the Navy Yard, the fellow for the Navy Yard, see. Then I learned and eventually they gave me the title as crane operator, which they call them, and I started to run everything.

Q How long did it take you to get the title of a crane operator?

A About a year.

Q And how long did you operate cranes in the Todd Shipyard?

A About eight years.

Q So that would bring us up to approximately 1961, is that correct?

A Yes.

Q Now, what did you do then?

A I left them. I left them and I went back into show business, and I must have left them two or three times and went back into show business and back to Todd's each time, and each time they would take me back.

Q Did you ever obtain a New Jersey license?

A Yes, sir.

Q When was that and under what circumstances?

A Well, I was working for the Todd -- and the work got slow and I went across the river to the other place?

Q What other place?

A Hoboken, New Jersey. They had one of the divisions there.

Q Was that a Todd Shipyard too?

A That's a Todd Shipyard.

Q Did you take an examination for a license in New Jersey?

A Yes, sir.

Q And did you obtain such a license?

A Yes.

Q What did that entitle you to operate, that license?

A The long-boom cranes.

Q Was the Jersey examination both written and practical?

A Yes, sir.

Q Did there come a time when you returned to New York?

A Yes.

Q And were you working for Todd Shipyard at that time?

A Yes, from Jersey I -- well, it's still Todd's but I would work anywhere over there. I worked for the Bethlehem people too, which is a shipyard.

Q Right.

A I went back to Todd because I had some seniority there, you see.

Q Now, did there come a time when you made application for membership in Local 14?

A Yes, sir.

Q And when was that, sir?

A I think it was early '68.

Q Prior to 1968 had you obtained a New York City license?

A Oh, yes sir.

Q And when was that?

A I must have had it three years, at least.

Q 1965?

A Yes, around that. Yes.

Q How and under what circumstances did you come to make an application for membership in Local 14?

A Well, I approached them with my credentials and they put me to work.

Q Who told you about Local 14?

A Mr. Gene Howard, a brother gneineer of mine.

Q Had you worked with him?

A Had I worked with him?

Q Yes.

A Indirectly, yes. He was working for an outside contractor and happened to come onto this private property, which was Todd's, where I was working, and he told me that he was an International operator, and I asked him how do you go about becoming one, you know, since he was making three times as much money as I was making, you know, or twice as much, anyway. And he said, "You must have a license." So I went ahead and started studying to get the license.

Q Did you study for the New York City license on your own?

A Yes, sir.

Q You never went to any schools or anything else like that,is that right?

A No.

Q Now, you made application for membership into Local 14.

Who did you speak to down at Local 14?

A The business manager and the business agent.

Q Which one? Do you know?

A At that time the business manager was Dillon, James Dillon.

Q Wnad did you have to do to fill out an application?

A I had to show my credentials?

Q What credentials were those?

A My New York City engineer's license and my New Jersey engineer's license.

Q Anything else?

A That's all.

Q And did you have to obtain sponsors?

A Yes.

Q Who were your sponsors, sir?

A Thomas Glenn and Mr. Gerald Danger.

Q Were they white or black, sir?

A They were both white.

Q Did you know both of those gentlemen?

A Well, I was introduced to them. I was invited to come out on their job and take a look-see, and since I had a license they let me run their equipment.

Q Now, you were invited out to a job site to demonstrate equipment? Is that what you are telling us?

A I was invited out because I wanted to see if I can run this kind of equipment. Some of it I had never had any experience with, but in the meanwhile I suppose the guys felt that, after they seen me run, they would feel save in sponsoring me.

Q Now, did you appear before any committees or any bodies in Local 14?

A Oh, yes.

Q What ones?

A Well, there is the examining board and the executive board.

Q Did the examining board ask you any questions?

A Oh, yes.

Q What type of questions did they ask you?

A Experience, previous experience.

Q And how long --

A Types of equipment.

Q How long did the examination take?

A I would say approximately a half hour.

Q And then you appeared before the executive board?

A Right.

Q Did they ask you any questions?

A Oh, yes, yes.

Q What type of questions did they ask you?

A Well, will I be willing to work and, you know, do a job.

Well, they asked me about experience too, you know. What kind of experience I had and where I had been working.

Q How soon after you appeared before those two boards did you receive your book?

A Just a few months. Three or four months. About as long as it would take to process a book.

Q Now, when you went through those boards did you obtain any jobs in Local 14's jurisdiction?

A I was permitted to work until I got a book.

Q So after you appeared before the executive board you then went out on permit until you received your book, is that correct?

A I was out on permit while I was waiting to go before the board because I had a license.

Q And for what period of time were you on permit in Local 14?

A From the time I showed them my credentials, the first meeting with the business manager and the agent. I worked right on from that time, right on, until I got my book.

Q Was that a period of about four or five months?

A Yes, just about.

Q Who did you work for while you were on permit?

A Well, I'll tell you. I had four or five jobs. I can't remember. I had four or five jobs one year. The next year I had 50 jobs but I worked every working day of the year. I just can't remember, there was so many of them.

Q Did you report to the hiring hall to get those jobs?

A Yes, I would go to the hall and they would give me jobs. Two days, one day, right back. Two days, one day.

Q When you first went to the hiring hall, Mr. Lee, what did you do when you came in?

A The first time I was there?

Q Yes, sir.

A I approached one of the agents or delegates, I don't know who he was, and I told him I was a friend of Mr. Eygene Howard, and he told me to down and shape up for work.

And then I just sat there.

Q How long did you sit there?

A I sat there until the fellows started going out. They didn't get work. So I said, "Well, they didn't get work, I don't get work."

Q You mean there were no jobs offered to anybody?

A A few jobs went ouy but not many. Say 40 men, maybe from what I could see 40 men, maybe seven or eight jobs went out.

Q And this was in 1968?

A That would be '67 or '68, see. Then I got a little discouraged.

Q How long did you keep coming to the hall?

A I didn't come back any more until -- I didn't come back any more.

Q Did you get a job yourself?

A I went back to Todd's.

Q And how long did you work in Todd?

A A few months I stayed there, and then I went back to the union hall.

Q Is that after you got your book?

A No, no.

Q Before?

A Yes. I am talking about the very first time I went to the hall and the second time I went to the hall.

The second time I went to the hall I spoke to the business manager and showed him my credentials. The first time I didn't show them.

Q You mean to tell them what you could do?

A Right.

Q Who did you speak to the second time?

A The business manager and the business agent.

Q You spoke to Mr. Nolan, Mr. Dolan?

A No. Then it was Mr. Dillon.

Q Excuse me.

A That's all right.

Q What happened then, sir?

A This is the second time?

Q Yes, sir.

A They put me to work.

Q Where did they send you?

A The Cross Bronx Expressway. They were doing a paving job up there.

Q Was that the same day that you came into the hall that you got sent out?

A No. It wasn't the same day because it was a little late for any work to go out.

Q How many days did you sit in the hall the second time?

A I never sat in the hall more than a day or two at the most.

Q Now, you were sent out on a job on the Cross Bronx Expressway?

A Yes, sir.

Q How long did that job last?

A It lasted a couple of months,and after that it was another job and it just went steady.

Q Did you go back to the hall each time?

A Every time I went back to the hall I got a job and when I didn't I got my own job.

Q When you got the jobs on your own what did you do?

A I was recommended from someone else I had worked for and I got a calla t home.

Q From the contractor?

A Yes.

Q What contrctor would call you at home and say, "Would you like to work for us?

A They were vendors, like. They were vendors. They rented cranes out and they needed licensed operating engineers. So when one didn't need me he would call up another outfit and say, "Look, I got a good engineer for you; would you like to use him?"

And he would say yes, and they used me back and forth.

Then, when they didn't have anything for me, I would call the hall or go to the hall and they would give me a job.

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Q Now, there were times when you went to the hall after the second time?

A Yes.

Q Were there men sitting in the hall?

A Yes.

Q White and black people there?

A Mostly white.

Q How many blacks, would you say?

A Well -- percentagewise?

Q No, just how many did you see?

A I never stayed long enough to see anybody because I always got a job as soon as I walked in most times. I saw a few, you know. If I didn't know them I didn't look at them.

I had one thing in mind, to get a job and get out of there.

Q When you were sent out on jobs were there still white men sitting in the hall?

A Yes.

Q Were they 14 book men?

A Yes, sir.

Q In all of the time that you have been in Local 14 hiring hall do you feel that you haveever been discriminated against because of your race?

A No way.

Q Who do you work for now?

A Perini North River Associates.

Q How long have you been there?

A Close to three years.

Q What do you do for Perini?

A I run a crane.

Q What type, sir?

A 4100 Manitowoc.

Q Do you have an oiler on that job?

A Yes, sir.

Q Member of a union?

A Yes, sir.

Q What union?

A 15.

Q Is he black or white?

A He happens to be black, just happens, no pick, it just happened.

Q Do you talk to him from time to time?

A Sometime I don't want to talk to him.

Q Do you let him operate the equipment from time to time?

A Yes.

Q Does he ask you to do that?

A No, not now, because he can run now.

Q He can run now?

A Yes.

Q How long has he been with you?

A This time a year.

Q About a year?

A This time. I had him before.

Q Where?

A Across the street here, the Family Court Building when they were putting foundations in. He was on the job when I got there because I took the job off another fellow. He was tired of running, his legs were a little tired, he was a little tight and wanted a break to get on another kind of job, and I run into him on the street and he asked me would I take it off him and I called the hall to clear it.

Q Have you talked to this oiler about becoming a member of Local 14?

A Yes, I spoke to him about it some years ago but I don't now. I don't think he would make a good engineer.

Q Why?

A Because engineers -- either you are an engineer or not. You can operate but you have got to put -- to put it simply, you got to have the head for it and the stomach

for it, because it gets a little nerve-racking.

Q Does this oiler have a license?

A No.

Q Have you talked to him about a license?

A Yes.

Q What does he say, sir?

A I don't think he thinks he can pass the examination.

Q What is this oiler's name?

A Vivian Paladino.

Q Have you had similar experiences with oilers where they don't want to take the license examination, if you recall?

A Yes.

Q Who, sir?

A I can't remember the name.

Q White or black?

A Mostly white. I only had one black, just this fellow.

Q Have you had discussions with the white oilers about becoming members of Local 14?

A Yes.

Q What do you say to them and what do they say to you?

MR. GLASSMAN: Objection. Can I ask for names of individuals or the time of the conversations?

Q Can you give us the name of a white oiler that you had a conversation with about becoming a member of Local 14?

A Well, the one prior to the present oiler that I have, his name is Lenny -- it is an Italian name. I am sorry, we are first-name guys.

Q His name is Lenny?

A Yes.

Q A member of the union?

A Yes.

Q Which union?

A 15.

Q How long has he been with you as an oiler?

A Six months.

Q Does he operate the equipment from time to time?

A Yes, I taught him. He had experience before but not on this particular crane. This is a new crane.

Q What type?

A A new one, just came out.

Q What is the name?

A Manitowoc, 4100.

Q What discussions did you have with Lenny about

becoming a member of 14?

MR. GLASSMAN: Objection, I know we have the same problems with hearsay we discussed earlier this morning.

THE COURT: I don't think we need to go into it. We have quite a bit of it in the record.

MR. GLASSMAN: He did not indicate any intent to call these individuals. We will be glad to allow him to call these people, obviously.

Q Have you made any attempt to encourageblacks to become members of Local 14, Mr. Lee?

A Yes.

Q Who, sir?

A Here we go with the names again. I simply can't remember, sir.

Q Let me ask you this: has anybody in Local 14 ever told you not to recruit blacks to become members?

A No, sir.

Q Prior to the Perini job where had you worked?

A Diesel Construction, I was with them.

Q What type of equipment were you operating?

A I was operating a hoist.

Q How many operating engineers were on that job?

A Maybe two dozen.

Q Two dozen?

A Two dozen.

Q Local 14 men?

A Yes.

Q What type of equipment were they operating?

A Derricks, hoists, cranes, compressors.

Q How many cranes did you have on that job?

A At one time I would say we had -- when you say cranes, are you including all hoisting equipment?

Q Yes.

A I would say at one time 15 pieces of equipment, hoisting equipment of various types.

Q How many compressors?

A Five to six different compressors spread out over the work area.

Q What about the Perini job, how many pieces of hoisting equipment did you have?

A Maybe 35 pieces.

Q How many non-hoisting pieces of equipment did you have?

A So many I wouldn't be able to count it.

Q How many? How many compressors?

A At least 25 or 30 compressors.

Q How many men run those?

A How many men?

Q Yes.

A Engineers?

Q Yes.

A It would be an engineer to a compressor, if it is a certain amount of feet apart. He has to be where he can cover and watch.

Q Isn't it a fact, Mr. Lee, most of the --

MR. GLASSMAN: Objection, your Honor. Is he leading his own witness now?

Q Are the compressors in batteries or aren't they?

A Yes, in places, in batteries.

Q Mr. Lee --

THE COURT: When they are in batteries they are serviced by one engineer?

THE WITNESS: Right, that is the thing.

Q Mr. Lee, do you receive the same rate of pay as the white engineers?

A Yes.

Q There is no discrepancy, is there?

A No.

Q Do white engineers receive better jobs than you do?

A Sometimes I get the feeling I get better jobs

than they.

MR. KENNEDY: I have no further questions.

MR. BRADY: No questions.

MR. KENNEDY: I am sorry, I have one more question.

BY MR. KENNEDY:

Q For the record, Mr. Lee, what is your race?

A I used to call myself a member of the colored race, but now they say I should call myself a member of the black race.

MR. KENNEDY: That is all.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Lee, you say you have an A and a B license?

A Yes.

Q Do you have a copy of the license with you?

A No, sir.

Q When you worked in the Philadelphia Navy Yard, did you ever have the job as an operator there?

A Yes, sir.

Q Actually assigned as an operator of a crane in the Philadelphia Navy Yard?

A Yes. What do you mean assigned?

Q Did you operate just when you could find some

time or sneak some time or did you actually get assigned the full-time job as the operator in the Philadelphia Navy Yard back in the forties?

A I was given the job as a helper in the boiler shop and I learned on my own a little to run some of the equipment and asked for the job but I didn't get it. It had to go to the Manpower Board.

They gave me a certificate saying if I pass an examination that I would be employed as a crane man, overhead crane man during the time of war only.

THE COURT: Did you pass the examination?

THE WITNESS: Yes, sir.

THE COURT: Did you become a crane man?

THE WITNESS: Yes, sir.

Q In 1960 I believe you said you worked at the Todd Shipyard?

A Yes, sir.

Q What kind of work did you do there?

A I was a crane operator.

Q Do you know what your rate of pay was there?

A In the sixties I must have been making $100, $100 something.

Q A week?

A They paid $3 an hour?

Q When did you get your New Jersey license, if you remember?

A I have it 10 or 12 years.

Q Did you work for anyone else but Todd in New Jersey?

A Bethlehem, in New Jersey.

Q In the shipyard?

A Yes.

Q Did you work any place other than the shipyard in New Jersey?

A No, but I was offered work in recent years, I was offered work.

Q What made you get a New Jersey license?

A In case the work got short over here.

Q Did you ever try to get a construction job in New Jersey?

A Yes, sir.

Q Out of the shipyard?

A Sir?

Q Outside of the shipyard?

A Other than ship.

Q Yes.

A Yes. When we had a building strike here in the city about three years ago I went over.

Q You said you got your New York City license in about 1965, is that correct?

A Yes.

Q Where did you work just after you got your New York City license?

A After the New York City license?

Q Yes, sir.

Q Where did I work?

Q Where?

A Right after I got the license I worked for Todd. I was still with the Todd's there because I didn't go to the union. I didn't go to 14 for it.

I just stayed there.

Q Any reason you didn't go to for at that time?

A I just thought that maybe that I wouldn't get work if I went there and I wouldn't give up what I had here.

Q What made you think that you wouldn't get work there?

A Listening to other people, I guess.

Q What other people had you talked to about getting work there.

MR. KENNEDY: Objection, hearsay, your Honor.

THE COURT: Yes. You will have to name the people.

Q Do you know the names of people that you talked to to try to get work?

A Well, they weren't any, they weren't engineers. They were workers in the shipyard. They were people that didn't know any more about 14 than I did.

Q Were they black men or white men?

MR. KENNEDY: Objection, your Honor. If they have no connection with Local 14 or Local 15 I am simply going to object on the ground that it is

not binding.

MR. GLASSMAN: Your Honor, this is purely probative of the state of mind of the individual as to why he did not do something. I would just like to know whether he talked to black or white men at that time in the shipyard.

THE COURT: All right. It is not binding on the union , anyway.

Q Were you talking to black men or white men at that time?

A Both.

Q When did you finally leave Todd Shipyard?

A After I showed my credentials to the union officials.

Q The first time you showed your credentials to the union officials did you have a New York City license at that time?

A Yes.

Q And I believe you said that you had been referred to them from Gene Howard, is that correct?

A Yes.

Q Was he a personal friend of yours?

A Yes, I would say so.

Q Is he white or black?

A He is black.

Q And at that time, if you know, was he a member of Local 14?

A Yes.

Q About what year was that, if you remember, that you first presented your credentials? What year was that?

A Around '65, I believe, I got my first issue of license.

Q Is that when you first then went down to --

A Yes, I went once, some time after that. I really wouldn't go near 14 because I didn't -- I was -- I wouldn't want to go. I didn't want to be a member of 14, I'll tell you the truth, because I wanted to be an oiler. I wanted to be a junior engineer. I wanted to get experience in the field first before I attempted to run long booms out on the street or -- that's the truth.

Q Did you attempt to be an oiler?

A Gene Howard advised me to be an oiler first and then move over to 14.

Q Did you ever go to Local 15?

A I went there the -- the first time I went there I thought I was talking -- I didn't know 14 from 15. I thought I was talking to 15 and I told them

I wanted to go out. I told them I could run but wanted to go out as an oiler.

Q Do you remember when that was, about?

A Well, it must have been -- it must have been 14 or 15 months after I got the license. Because now I got the license but now I am afraid to use it. This is really the way it went.

Q Do you know who you talked to when you went down to the hall at that time?

A No, I don't.

Q Do you remember if you spoke to a union delegate?

A Yes, it had to be a delegate because he came out of the room and I walked up to him and I said, "Do you ... Gene Howard?" and he said, "Yes."

I said, "He told me to come over and shape up for work here."

So he says -- I think he asked me what did I do and I told him, I said, "I run."

He said, "Okay." He said, "Well, shape up."

So I sat down with the other 40 or 50 men.

Q Did you get a job at that time?

A No. Neither -- I don't think many guys got

a job. Maybe six or seven went out.

Q Do you know if that delegate was a Local 14 delegate or a Local 15 delegate?

A I don't know. I don't remember.

Q Did they ask you to sign any kind of a list at that time?

A Well, now I found out later that the day that you get --

Q No. At that time did they ask you to sign a list?

A No.

Q Do you know how many of the people sitting in the hall at that time were Local 14 people and how many were Local 15 people?

A No, I didn't know.

Q About how long did you wait in the hall at tt that time, if you remember?

A Three or four hours. Maybe three. Three hours. I got there about 7, 7:30 and I stayed. I think I left about 10. I saw the fellows starting to walk out and I walked out too.

Q Did you come back again?

A No, not right then.

Q Were you still working at Todd at that time?

A Yes.

Q When is the next time you came back to the hall?

A A few months passed and I spoke to Howard, Eygene Howard, and he advised me to go back to the hall and talk to -- let the people know who -- that I was a licensed engineer, and to see an official of the Local 15 and try to go out as an oiler. Again he repeated it: "Try to go out as an oiler first to get the experience."

Q Was this about a year or two after you got your license?

A Yes.

Q Did you go back to the hall?

A I went back. I went back, yes. I went back, and now this is the second time I went back, right.

Q What happened then?

A I showed my credentials asnd even then I asked to go out as an oiler.

Q Who did you speak to?

A At that time I spoke to the business manager of Local 15, Maguire. And he said, "You want to go out as an oiler, okay." But -- and I didn't know, and the

delegate called me, the first they called me, and I didn't know whether it was 14 or 15, and he sent me on a 14 job. Not a junior engineer's job but an engineer's job and I didn't know. I thought I was going out as a junior enginer, as an oiler, but when I got on the job I found out this was a 14, an engineer's job, and that's what I've always worked since.

Q At that time you said you spoke to Mr. Maguire?

A Yes. He said, "Just see one of the delegates."

Q Do you remember who he told you to see?

A He said, "See one of the delegates."

I told him, "I would like to go out for a while as an oiler," and he said, "Okay, see one of the delegates."

So a delegate called me and asked me, "You got a license?" and I said, "Yes."

Q Did you go see a delegate at that time or did you sit in the hall or what happened?

A This all happened in the hall.

Q Then he called you over, a delegate then called you?

A Yes. Some -- maybe an hour later, or something like that, he called me and asked did I have a

license -- no, he asked me could I run a certain piece of equipment and I said, "Yes." He didn't ask me if I had a license, he asked me could I run a certain piece of equipment, and I said, "Yes." So he sent me out on the job.

Q What piece of equipment was that?

A In this case it happened to be what they call a compacter.

Q What is a compacter?

A Well, it's sort of like a roller, you know, an asphalt roller. Sort of like that.

Q Is that a big roller?

A Yes -- well, it's sort of like that, but it do a little different job than a roller. It rolls, but it also does something else. It compacts the surface material and cools it off.

Q Is that a piece of Local 14?

A They set it up, you know, compact it and set it up.

Q Was that a piece of Local 14 equipment?

A Yes.

Q Did you actually go out and run the compacter?

A Oh, yes.

Q How long did that job last?

A Maybe seven, eight weeks.

Q Was that the only compacter on the job, if you know.

A It's on this highway here, so there may have been some other equipment further up.

Q Had you ever run a compacter before?

A No, but I had run machines so much like it that it's all the same.

Q What other similar machines had you run before?

A The equipment that they had in shipyards and all.

Q What kind of equipment?

A Tractors. It's almost the same, tractors and --

Q What's the real difference, if you know how to run a tractor in a shipyard; what's the difference in running a compacter?

A Well, the difference?

Q Yes. How do you learn, how do you adjust yourself to running a compacter or what are the similarities?

A Well, there is really no difference if you have used one piece of heavy equipment. It's just a matter of knowing where the controls are, and it's just that

simple.

Q After that job then what did you do?

A It was one job after another, all different types of jobs.

Q How did you get the jobs?

A Through the hall or through reputation. Somebody would refer me to someone else.

Q This is now before you became a Local 14 member, right?

A Well, I was working under permit. I was working on permit while they were processing my book.

Q Is that a permit from Local 14?

A Yes. They gave me permission to work the union jobs until my book --

Q What kind of equipment did they send you out on while you were permit?

A Everything.

Q Could you give us an example?

A Everything.

Q Could you name the kinds of equipment?

A Cranes, hoists, lumber hoists, compressors.

Q Was that fairly steady work at the time?

A Beg your pardon?

Q Were you working fairly steadily on permit?

A Yes, I never stopped.

Q Do you know if there were any other men working on permit at the time?

A No, I don't.

Q I believe you testified that your sponsors invited you out to try some equipment before they sponsored you.

A Yes.

Q I believe you testified that was some equipment that you had never actually run before, is that correct?

A Different manufacture of equipment.

Q What kind of equipment was that?

A Well, Brother Glenn, he happened to have a crane called an American crane, and I had never run this type or this series of it. I had run the American but not the series.

Q Had you run anything similar in the shipyard before?

A By the same manufacturer but a different type crane, different altogether, but it is made by the American people, and this happened to be a gantry crane. There is a greater difference between the two

Q Where had you run similar equipment before?

A Namewise?

Q No. Where? Where and when had you previously run similar equipment?

A Well, we had the names, the manufacturers' names, of the machines in the shipyards, but they were different, they were made a different year, made for a different job, they had a different capacity.

Q Well, did you have trouble on running this machine that the sponsors sent you out on?

A No.

Q What did you have to do? Is it fair to say you just got up on the machine, got used to the controls and the difference between --

A The engineer briefed me, he briefed me, you know, on littel technical things, feelings, adjustments of clutches, brakes, and the hazardous things around and the stability of the machine, and then you keep this in mind and you go ahead and you start to feeling it out for yourself.

Q About how long then did it take you to actually be able to run it?

A Well, a few minutes.

Q Have you been back in the hall since you got your union book?

A A few times.

Q Have you seen other men out of work at times?

A Yes.

Q On those times have you had to sign a list?

A I think I only -- you mean the hiring list that you are out of work?

Q Right.

A I only signed that list once and then the next day I had a job?

A I believe you said there were one or two times when there were 40 or 50 men in the hall, is that correct?

A I've walked in, I've seen 40, 50 men. I don't know who they were. I can't say that they were 14 men. They could have been 15 men.

Q Is there any way of walking in the hall and being able to tell whether they are 14 or 15?

A Well, now I know. Because now I know because I've learned. I know, I've seen most of the 14 men at one time or another. So now if I, see, get to to the hall I would know, but four or five years ago, three years ago, I wouldn't know.

Q Right now, if someone didn't know --

A But I would know now because I've been on different committees and I, you know, meet these fellows at the meetings, at the social affairs and picnics and

dances, and I would be on committees and I got to know them. Now I get to know them.

Q But right now if someone didn't know the man personally, could one go into the hall and figure out who was Local 14 and who was Local 15, if he didn't know the men personally?

A You better repeat the question.

Q If you didn't know the men personally and you just walked into the hall at the present time, could you tell who was Local 14?

A Now?

Q Yes.

A I could do pretty good now. I could do pretty good, but I wouldn't do as well as someone else because I don't get there too often. I work all the time. I don't get the chance to get there.

T5

Q You said there was a time when you went back to the Todd Shipyard again after you had been in Local 14?

A After I -- I visited Local 14 and I didn't show my credentials the first time. The second time I went into Local 14 I showed my credentials and I went to work and I didn't go back to Todd's.

Q Perhaps I misunderstood your earlier testimony but I thought you said in recent years after you got your book in Local 14, that you went back to the Todd Shipyard for a while; is that true?

A No, you can't do that. I wouldn't have an interest,anyway.

Q Why wouldn't you have an interest?

A Because they don't pay the money.

MR. GLASSMAN: No further questions of this witness.

MR. KENNEDY: I have none, your Honor.

THE COURT: You are excused.

(Witness excused.)

MR. KENNEDY: Mr. Mahady.

rp2

C Y M A H A D Y, called as a witness on behalf of the defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q How old are you, sir?

A 64.

Q Are you a member of a union?

A Local 14, Operating Engineers.

Q How long have you been a member?

A 24 years past.

Q Since 1954?

A Since 1950.

Q Are you licensed to operate equipment in the City of New York?

A Yes, I am.

Q Have you your license with you, sir?

A Yes.

Q Is it expired?

A It is expired since the 30th of September.

Q Would you demonstrate that license, being it out here?

(Handed to counsel.)

MR. KENNEDY: Your Honor, if you will just

excuse me, I would like to discuss this matter with the United States Attorney's office.

In Exhibit 91, which the government put in, there are 254 names of people who allegedly have never been licensed by the City of New York and who are operating engineers.

THE COURT: Why don't we take a short recess. I have to terminate today at 4.30.

MR. KENNEDY: All right.

(Recess.)

Q Mr. Mahady, there has been testimony in this trial about people who have attended classes to prepare themselves for the license examination.

My question to you is, have you ever conducted such classes?

A Yes.

Q When for the first time, sir?

A In the middle 1950's, somewhere in the middle fifties.

Q How and under what circumstances did you come to conduct those classes?

A Well, friends of mine knew I was up on it pretty well, I had taken several Civil Service tests and I passed them.

I showed ability to pass them like the stationary engineer's license, the steam license, and I never had too much trouble with them.

Of course, I had been schooled prior to taking them, but friends asked me for help, which I did help them.

Q Who were these friends, sir?

A Well, some were from the neighborhood and after a while they started bringing their friends and, of course, I felt -- it was after the war there and a lot of the fellows were Servicemen and I figured they needed a hand and I was very happy to give it to them.

Q Prior to the time that you started to conduct these classes, had you had any experience in teaching?

A Yes, I did. I taught in the Zavarian Labor School, I instructed there, and, of course, as I took courses in the Seamen's Church Institute for a marine license. I had a marine license prior to the engineers. In fact, that is where I first became an engineer, a Marine engineer.

Q What connection, if any, did Local 14 have with these classes?

A None whatever.

Q Was there any charge for conducting these classes?

A No charge.

Q Where were they conducted?

A At first they were conducted in my home until they wore out my furniture and my wife says you have to get them out of here, you got to find some place else.

Q Where did you go after that?

A A store front that the District Leader I knew had and I was able to get it on Saturday night.

Q Was there any charge for using that hall?

A There was no direct charge. He never charged me, but we used to, at the end of the sessions, we would make a donation toward the Little League.

He was sponsoring two Little League teams and I used to tell the fellows how good he was to let us have it and we in turn should contribute something to his fund in the Little League, which they did.

Q Now, do you conduct those classes today?

A Yes, I started recently conducting them.

Q Where are those classes conducted?

A Conducted in the upper end of Manhattan in a Little League clubroom, a store actually. That Little League has it and they have their equipment and meetings there.

Q Is there any charge for students attending those

classes?

A Yes.

Q How much?

A $40.

Q Is that money remitted to Local 14?

A No way, no part of it.

Q What does this money go for, sir?

A It goes to the expense of operating. I have had printing to do and I have also donated a stipend to the Little League for having the meetings we have, and we get some beer and things like that that kind of liven the thing up and make it, you know, more congenial, and we use up all the money.

Q Mr. Mahady, how long is the curriculum for these classes?

A It runs approximately three hours with a break.

Q One night a week?

A One night a week.

Q How many sessions do you have, sir?

A This time I will have approximately ten sessions. That would usually be the limit to cover all the scope of the examination.

Q How many students do you have at the present time?

A Definitely I can't say, but in the neighborhood of 30. Some more than that came, but they seemed to drop off. They get discouraged and drop off.

Q Do you have any blacks in that class, sir?

A Yes.

Q How many?

A We started off, I think, with about eight. I didn't make a head count on them but some of them were different shades of course and I considered that when I say I had eight colored. We have some Spanish there, too.

Q Is Keith Wilson one of the people in your class?

A That name seems to be on the list there, although I don't pay much attention to the roster.

Q What is it that you give these people in the way of instruction? What do you teach them?

A Well, I teach them about equipment, the questions that I think they may be asked, or the variations of questions that they may be asked, work around old questions, and I use that as a guide for them to study and instruct and, of course, the scope of the examination there, the equipment and appurtenances. That covers it pretty well.

Q Where did you get hold of the old examinations?

A They are available. They were available in

the libraries. I got some in the New York City Library in the Municipal Building years ago and I also bought some from the Civil Service Book Store years ago.

Then through the years when I was doing it before, We tried to have the fellows remember the questions from the examination and if anything new comes up, we would make a note of it; which very little new has come up over the years.

rp8

Q Do you know who Mr. Dingle is?

A A member of Local 14.

Q Did he ever conduct these classes?

A He did, to my knowledge.

Q Was he a student of yours, sir?

A Yes. I sponsored him in the local, too.

Q Does Mr. Dingle conduct these classes any longer?

A Not to my knowledge. I understand he is not.

Q Where do you get these prospective students from?

A They are sent to me and they also call me on the phone. In fact, there are times I can't finish my supper, they call me on the phone and I also meet fellows on the job, they are in the apprentice local, the junior local there, and they have ambitions to become engineers.

If I have room for them I don't turn them down.

I can't overflow the place. We try to keep it within limits because when the class gets too big, it is ungainly, you can't control it, and that would be the only reason I would turn them down. But I haven't turned many down unless they are late starting.

There is no use anybody starting in the middle of the thing, because they would have missed too much.

MR. KENNEDY: I have no further questions, your Honor.

MR. BRADY: I have one question.

CROSS EXAMINATION

BY MR. BRADY:

Q Mr. Mahady, you used the expression "apprentice local." What local are you referring to?

A I was referring to Local 15, that is what the oilers are in.

Q But you don't mean to say, do you, that everyone in Local 15 is an apprentice?

A No. They do cover that type of work. That is where they get their preliminary experience as apprentice. It is not considered an apprentice local. Maybe I used that wrongly, but it is a chartered local.

MR. BRADY: I have no further questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Mahady, how long have you been conducting these classes?

A Well, I started in the middle '50s and I believe I went for about 10 years, roughly, on or off, give or take a year, and then I stopped when times got slowed down. There was no work, there was a slow period, a slack period of work there, and I didn't want to encourage fellows to spend their time going for this when maybe they wouldn't get any work, so I stopped.

In the interim, it started up again and I didn't stay with it. I just had had enough of it at the time.

Q Was that when Mr. Dingle took over?

A In that area, yes.

Q Do you know how Mr. Dingle took over, whether anybody got him to start the class again?

A Much as I -- all I know about it is he started in much the same manner as I did, from friends coming to him.

Q In your experience as an operating engineer and from your experience teaching the classes, have you found the classes useful for people to take them to pass

the test?

A Oh, yes. I think it's -- I get him -- you know, they come back and thank me for helping them and they say how much it helped them. And as far as I am concerned, anything that is asked on the test, the Civil Service test, an engineer should know. It's all due to safety and equipment, you know.

Q Most of the fellows, do they pass the test?

A Oh, no.

Q Some of them have passed it?

A Look, we have quite a few failures. It depends on the individual. They have to do their home work. It's like anything else.

Q Have you ever told Local 14 about your classes?

A I have had no connection in this respect with Local 14. It was my own doing. I used it, I made friends with it, and I think sometimes it caused a little envy or a little repercussion. But, however, it's in no way connected.

Q Did you ever tell Local 14 about your classes?

A What do you mean? Officially?

Q Did you ever pick up the phone or in person talk to a Local 14 delegate or officer and say, "I have these classes"?

A Never, never.

Q Now, does the union ever refer people to you for those classes?

A The union as such never did, but some individuals in the union would ask me if I would take somebody that would be a friend of theirs.

Q Has any union officer or delegate ever referred persons to you?

A Yes, they have. Yes.

Q When was that?

A Well, recently. And in prior years they would have the guy call me up and say that they got the information from he and take it from there, you know.

Q Do you know Betty Gowan?

A Yes.

Q Who is she?

A She is, I believe you would call her, a secretary in the Local Union 14.

Q Do you know whether she ever kept a list of interested people for your classes?

A Not to my knowledge.

Q She might have? She might have, as far as you know?

THE COURT: Not to his knowledge.

A Not to my knowledge. I have no access to her files or anything like that.

Q How often do you give the classes?

A Once a week until the test will be, and then --

Q Then you start a new set of classes?

A Not immediately. The test is given twice a year, so we start prior to that. About ten weeks prior to the test.

Q Do you know how long Mr. Dingle gave the classes?

A How many years?

Q Yes, sir.

A Not exactly. I would say maybe five or six years, something like that. It's a guess.

Q Do you know whether or not Mr. Dingle ever gave the classes in Local 14's hall?

A As far as I know, he gave them uptown. They were uptown.

Q How many relatives do you have in Local 14, Mr. Mahady?

A Well, I have four sons.

MR. KENNEDY: I don't think that this is proper cross examination. I don't believe I mentioned Mr. Mahady's family at all.

THE COURT: He cam make him his own witness.

MR. DEVORKIN: I will be happy to do that.

Q What are their names?

A There is John and Tom and Frank and Mike.

Q Can you tell me what Frank is doing right now?

A He works for Cranes, Incorporated.

Q What kind of work does he do?

A He operares a crane.

Q Could you tell me what Michael is doing?

A He works for Perini.

Q What does he do?

A Operate a crane.

Q Do you know how long he has worked for Perini?

A Ever since he come out of the service.

Q When was that?

A About three years ago. He worked as an oiler, and then he worked as a -- I am not sure on that time, how long he is out. I am hazy on that. It could be four years.

Q But ever since he got out of the service he's been with Perini?

A Right.

Q Do you know how he got his first job there?

A He was a member of the other local and he went to work there as a maintenance man.

Q Do you know how he got into Local 15?

A He started in as an apprentice.

Q Do you know who got him that position?

A I did. I asked for him. Wouldn't you ask for your son?

Q Did you ask for your son?

A Absolutely.

Q Who did you ask?

A I asked the people involved in the union if they -- when they get a chance, to put them to work. If they would I would appreciate it.

Q Were those 14 or 15 delegates that you asked?

A People in 15.

Q How long after you asked did he get his book in 15?

A It was a long time. They worked. When conditions would be good -- I would time it when conditions would be good, when there would be work available, when I thought, in my judgment, there was work, I would ask.

Q Did he join 15 or 15A?

A I believe it was 15C.

Q How long was he in 15C?

A I don't know. I can't keep that in my head.

Q Then he transferred from 15C to 14?

A He transferred after he got his license, after he served his time and time after that. I mean there is intervals there.

Q Did he have to wait to get into 14?

A Like anybody else, he had to be -- he had to wait, and he transferred. He wasn't sponsored; he was a transfer, and he had to wait. In fact, he was put back for more experience. Mike I am talking about.

Q From the time he first applied to Local 14 until the time he got in, how long passed?

A I wouldn't say. I don't recall.

Q More than a year?

A In that area.

Q What does your son John do?

A He is a crane operator, equipment operator.

Q What kind of equipment?

A Well, he is also -- he is a licensed pilot.

Q What kind of Local 14 or 15 equipment does he

operate now?

A He operates cranes, derricks.

Q Where does he work?

A I don't know. Where does he work. He is not working now, I don't think. He is out of work. He is finished on his job and he didn't go back to work.

Q Where was he working before he finished that job?

A Well, I don't keep that kind of tabs on it.

Q When did he get into Local 14?

A I can't tell you. I would say five or six years ago.

Q Do you know how he got into Local 14?

A As a transfer.

Q From 15?

A Right.

Q Which branch of 15?

A Let's use that 15 term carelessly, you know. I mean, it's one of the branches, D or C.

Q Which branch was it?

A That I can't be specific about.

Q Do you know how he learned to become a crane operator?

A Through working with operators on the job, oil-

ing and the like.

Q Is that how he learned to pass his city license test?

A That's how he learned the practical end, but I schooled him on the written end.

Q What does your son Thomas do?

A What does he --

Q What is he doing now?

A He is operating a concrete bucket.

Q How long has he been doing that?

A Well, roughly six months on that particular job.

Q Do you know which contractor he works for?

A I don't recall the name right off.

Q Has he been working for that contractor before the six-month period you just talked about?

A Yes, he worked out in Brooklyn for him, and then he brought him to this job on 44th Street there by the UN.

Q How long has he been working for that contractor?

A Roughly a year, between the two jobs.

Q And when did he get into Local 14?

A When he came out of the service with his --

they all were in the service and got their experience, a lot of it, in the Navy.

Q Does the Navy give good experience for --

A Terrific. Seabee. Seabee experience. Now, I can't remember all of these dates and all of these small things.

Q I understand.

A I never kept a diary on it.

Q But roughly how long do you think Tom has been in Local 14?

A I would say five years or thereabouts, give or take.

Q Was he in Local 15 or a branch of it first?

A Yes.

Q Do you remember which branch?

A He was in local 15.

Q Do you know how he got into Local 15?

A Yes. He got a job and he was a terrific mechanic. He was a certified welder and they were in demand, and he went right into Local 15.

Q A certified welder?

A Each and every one of these fellows, I had them go to school and take up welding and take up everything that qualified them. I didn't send them anybody that

weren't qualified to do work.

From my observation I know that they had to be able to do the work and that's why they were able to get the work, because they do it.

Q Did you send Thomas and Francis also to Local 15 first?

A No, not Tom. He got the work and then he got in the local.

Q Did you help him get that job first?

A No.

Q Do you know how long he had the job before he got in the local?

A A couple of months, I guess, or a week-- you know, six months, whatever. It takes time to process the thing.

Q Was Frank in Local 15 before he got into Local 14?

A He was in one of the branch locals before he went in the service and he was in the service then for four years and in Vietnam. He done 28 months in Vietnam.

Q Do veterans usually get preference with either of the locals?

A I imagine it's a consideration. I would --

I would favor them if I was in the position.

Q Did you send Frank to Local 15 before he went in the service?

A Did I --

Q Did you refer Frank to Local 15 before he went into the service?

A No, no. Not as I remember. Wait, now, wait. He was in the local and then he went right in the service, yes.

Q Did you refer him to the local?

A They go down and, you know, sit there, like a young fellow tells you here, and they shape for work they can do. See, you have to understand they have various types of work.

Q Just answer my question, Mr. Mahady. Did you refer him or not?

A No.

Q Are certified welders usually in demand?

A Yes.

Q Have you ever known that not to be the case?

A They have slow times like every other branch of the business.

Q Would that be frequently or infrequently?

A Well, I am not involved with it. All I know

is that they are sometimes out of work. Right now there is an awful lot of them out of work.

MR. DEVORKIN: I have nothing further, your Honor.

THE COURT: Any questions?

MR. BRADY: I have no questions.

REDIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Mahady, are all your sons licensed engineers?

A Yes.

Q You are sure of that?

A Positive.

Q Mike appeared before the examining board at one time, did he not, sir?

A Right, correct.

Q Did he pass the first time?

A No.

Q And you have been a member of Local 14 for how long, sir?

A Twenty-five years, roughly.

Q John appeared bef o re the examining board?

A Right.

Q Did Thomas?

A Right.

Q Did Frank?

A Right.

Q Did they pass?

A The first time, you mean?

Q Yes, sir.

A Well, I know Mike did not. He was set back, which annoyed me, but -- I mean, he had what it took and -- I don't recall whether the others were set back or not.

Q Are you proud of your sons, Mr. Mahady?

A Very much so.

MR. KENNEDY: No further questions.

RECROSS EXAMINATION

BY MR. DEVORKIN:

Q When any of your sons were sent back by the examining board, Mr. Mahady, did they work on permit for Local 14 then?

A No. He was in Local 15. He went back to his job in Local 15. He didn't quit the job until he was accepted into Local 14.

Q Do you know what he was sent back for?

A More experience.

Q Experience as what?

A As an operator on the equipment, you know.

Q How did he get that experience if he was sent back to Local 15?

A Well, he was on equipment.

Q Was he running it every day?

A He was working with the operator and he was getting the opportunity to get more experience with hoisting equipment.

Q Is that experience working with the operator important for getting into Local 14?

A Very important.

MR. DEVORKIN: I have nothing further.

MR. KENNEDY: Nothing else, your Honor.

THE COURT: You are excused. Thank you.

THE WITNESS: Thank you.

(Witness excused.)

MR. KENNEDY: That is all the witnesses I have for today, your Honor.

THE COURT: All right. I may have a trial on Tuesday, I can't tell. I do a lot of work with the government and the government is sometimes very anxious to move forward on Tuesday. If the people who are involved plead guilty, then I will be available. If they don't, then I will not be available, but I would hope to dispose of it in a day or a day and a half. That's

just unavoidable because it is a jail case.

MR. KENNEDY: Your Honor, I will be completed, I believe, with my case on Monday, either at noon --

THE COURT: Well, when I can I will sit until 5 o'clock and start early, but I have all these other things going and it's too bad we don't get paid by the case.

MR. KENNEDY: Well, counsel for all sides certainly appreciate this.

THE COURT: Okay. Well, we will do what we can. We will recess until 10 on Monday.

(Adjourned to October 7, 1974, at 10:00 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Trevor Wisdom	1962	1986		
Hermas Forbes	2000	2011	2020	
Alan J. Reardon	2022	2027		
Herman Lee	2032	2056		
Cy Mahady	2075	2082	2095	

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
vs. 72 Civ. 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants.

New York, October 7, 1974;
10.15 A.M.

Trial resumed.

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MR. DEVORKIN: I just want to hand up to the Court copies of the additional parts of Plaintiff's Exhibits 38 and 39 which were interrogatories that we produced.

THE COURT: Thank you.

MR. KENNEDY: Mr. Stanton.

J O H N S T A N T O N, called as a witness on behalf of the defendant Local 14, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Mr. Stanton, would you please keep your voice up so that the attorneys and his Honor can hear you.

Mr. Stanton, are you a member of a union?

A Yes, I am.

Q What union?

A Local 14, 14-B.

Q Are you licensed by the City of New York?

A I am.

Q When did you obtain your license?

A I took the examination in 1955.

Q Is your license in force and effect today?

A Yes, it is.

Q What type of license is it?

A A B certification.

Q Did you first obtain an A license?

A I did.

Q When was that?

A 1955.

Q When did you receive your B endorsement?

A I would say about three or four months ago.

Q Is your license in force and effect today?

A Yes, it is.

Q Would you tell me, Mr. Stanton, have you had experience in heavy equipment?

A Yes, I can handle everything we have under our jurisdiction with the exception of a water rig.

Q When and where did you first obtain your experience on heavy equipment?

A I was an oiler in 138 out in Long Island and

I worked in the sand pit out there as an oiler. I had an opportunity to get on equipment and that is where I learned.

Q What type of equipment did you operate?

A Dragline and backhoe.

Q At any time during your experience with 138 did you ever operate any cranes?

A I did.

Q What type?

A Truck cranes and crawlers.

Q Would you tell the Court what is 138?

A 138 is the Operating Engineers and their jurisdiction is Nassau and Suffolk.

Q You took your license examination in 1955?

A That is right.

Q Did there come a time when you began a member of Local 14?

A Yes. As soon as I got my license I made application to Local 14 and I came in here and worked on permit for six months and then I was taken into Local 14.

Q Did you require any sponsors?

A I did not.

Q Simply transferred?

A From one local to another.

Q Mr. Stanton, during the course of the time that you have been a member of Local 14 have you served on any committees or boards?

A I was a member of the examining board for about five or six years.

Q Are you a member of the executive board?

A I am a member of the executive board now.

Q About how long?

A Six months.

Q Have you held any other positions with the local?

A I was director of the retraining program.

Q Could you tell us when the retraining program was first started?

A We started the school around 1970.

Q Would you tell us how and under what circumstances that program was set up?

A I believe it came under one of our agreements, collective bargaining agreements, that we entered into with the general contractors and the building trades.

Q Where is that school located?

A Adjacent to Kennedy Airport on Lefferts Boulevard.

Q Would you tell us what type of equipment you

have out at that school?

A Well, we had a guy derrick, several backhoes, cable backhoes, hydraulic backhoes, piledrivers and clam-shells, crawler and truck crane.

Q Who paid for that equipment?

A The members.

Q How did they pay for it?

A Well, part of our agreement we paid two cents an hour for every hourwe worked, two cents going into the retraining program.

Q How many instructors do you have out there?

A At the time I had about seven or eight.

Q Are those instructors paid?

A No, not really. They are given, like expense money for lunch. That's all.

Q How much is that, sir?

A It comes to 25 a month.

Q Could you tell us what the curriculum is at that particular school?

A Well, it is basically practical instruction. If the man would come out, he'll go -- if he feels he wants to learn how to operate a truck crane, we'll put him on a truck crane, and under the direction of an instructor he'll operate the piece of equipment.

Q Do 14B people attend that school?

A They do.

Q Are these people licensed?

A 14B is not licensed.

Q And why would 14 B members attend that school?

A Well, the 14B, to the best of my knowledge is basically what we call junkyards. They are in there operating a grappling hook or a magnet with the cars that are junked and to gain the practical experience that you need for outside construction. It's a lot -- the work is different. So they will come out and get on a backhoe or a clamshell or something that they haven't

been subjected to?

A Now, are 14B men permitted to transfer into 14?

A Oh, yes.

Q Are they required to have a license?

A Yes, they must have a license.

Q How do people end up coming to the school?

A Well, we would get a phone call from a business agent or a member directly, if I happened to know the member or whatever it might be, asking whether there was any room at the school and if they can send someone out, they are looking to get in or they are looking to gain experience and whatever; as soon as the opening was there, out they came

Q Now, are there times when nonmembers would appear at that school?

A Occasionally, yes.

Q Would you tell us what circumstances?

A They might be permit men and under our bylaws they must operate two or more pieces of equipment and they might be following one line of work and they come out to gain experience on the piece of equipment that they have never been subjected to before, to improve their skills and so they will, you know, be able to go out and work.

Q Would these men be licensed?

A Yes, to the best of my knowledge.

Q Would any other type of people appear out there who are nonmembers?

A Yes. Occasionally we would have a few fellows come up and they were looking to gain experience, again to come into the local, and if the opportunity presented itself,and I would say 99 per cent of the time it was there, we would throw them on there, if we had the room, if there wasn't a member there.

Q Are you familiar with a gentleman by the name of Keith Wilson?

A Yes, I know Keith Wilson.

Q How and under what circumstances did you first meet him?

A I first met him on a Saturday, I don't really remember when, out at the school and one of the 15 business agents, Dan Murphy, introduced me to him and he showed me his credentials, how he had gone to, I believe, an International school some place, and he told me that he really wanted to be a crane operator and this was his desire, and the opportunity was there and he seemed to be a pretty decent fellow and I said, "Why not. Go over there and jump on and let's see what

you can do and that was the circumstances when I met him.

Q Can you tell us how long you permitted Mr. Wilson to operate equipment?

A As long as he wanted to.

Q For the record, what is Mr. Wilson's race?

A He is a minority, black man.

Q You testified that you have been a member of the examining board of Local 14, is that correct?

A That's right.

Q During what period of time?

A I would guess from about 1968 to 1974.

Q And would you tell us what procedures the examining board of Local 14 follow?

A The function of the examining board was to go over the application and interview the applicant on his experience. This was done prior to them coming into the local.

If they showed us that they had the experience, then they would be passed. If they were lacking in experience, then they would be told, "You don't have enough experience, you must go back and gain this experience and then reapply.

Q During the period you were on the examining board, were people held up for lack of exp erience?

A Yes.

Q White or black, sir?

A Oh, yes.

Q Both?

A Oh, yes.

Q And what would happen under those situations?

A We would tell them exactly why we were turning them down and they would go out and get the experience, and when they got the experience they would come back in and then they were passed, if they gained the experience.

Q To your knowledge, during the time that you were on the examining board, was anybody rejecyed permanently for membership?

A Not to my knowledge.

Q And that goes for both white and black?

A Yes.

Q When a person was found to be lacking in experience did the examining board set a time limit for them to obtain such experience?

A Well, actually what we would do, if they were fairly close, we had more or less a free hand in that. We could go 30, 60 or 90 days, and if the man was fairly close we might put him back and see in 30

days. If he was far away we might put him back for 90 days. It was just a judgment at a particular time on a particular case, as to how much time would be needed before he could get the needed experience to come up.

Q Where would the person who was temporarily rejected obtain such experience?

A Well, he would either go out and try to get his own job or call and speak to one of the delegates: "Could you please send me out on this particular clam-shell, crane, derrick," whatever he needed.

Q Were there occasions when these pec e were sent out to Kennedy?

A Yes, there was. We had one particular case involving about six people who we had turned down for over a year-and-a-half period of time. At the particular time the work situation was such that these cranes just weren't available. And it was discussed and we felt that,well, maybe we can give them a test out there, and if they pass the test satisfactorily we would accept that in lieu of actual experience.

Q Were these people white or black, sir?

A I really -- I really don't know, to tell y ou the truth. I don't really recall. I would say the

majority of them were probably white.

Q Incidentally, do you have any relatives in the union?

A No, I don't.

Q 14 or 15?

A No.

Q How about 138?

A No.

MR. KENNEDY: I have no further questions.

MR. BRADY: I have no questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Stanton, do you have your license with you today?

A No, I don't.

I can give you an index number, if that will help.

Q Do you know the index number?

A 2521.

Q Do you know the last date on which you actually renewed that license?

A The 15th of February, this year, thereabouts.

Q You said you were a member of Local 138 of the Operating Engineers?

A That's right.

Q Where are their offices located?

A Right now it's in Gazza Boulevard, in Farmingdale.

Q Is it fair to say that they operate basically the same equipment as Local 14 and 15 in New York City?

A Basically, yes, but -- basically, yes.

Q Did that local's trade jurisdiction include the equipment used in New York City by both Locals 14 and 15?

A Yes.

Q Can an individual who is a member of Local 138 work on both Local 14 equivalent equipment and Local 15 equivalent equipment in Nassau and Suffolk?

A Yes.

Q Does he need any kind of a transfer card to work on one piece of equipment as opposed to another piece of equipment?

A Where, here?

Q No. Within Local 138 in Nassau and Suffolk.

A No. I would imatine he is assigned to the piece of equipment.

Q You said, I believe, that the retraining program started in 1970, is that correct?

A I believe it did.

Q Was there any particular method by which Local 14 members were retrained prior to that date?

A No, except that they took it upon themselves to go out and try and learn, but no formal training.

THE COURT: Are there licensing requirements in Nassau and Suffolk similar to New York City?

THE WITNESS: I believe they might need a New York State certificate of competency.

THE COURT: But they don't have the license requirements that they have in New York City?

THE WITNESS: No, they don't.

Q Do you know on what piece of equipment a license or certificate of competency is required from the State of New York?

A I am afraid I don't.

Q At the time that the Local 14 retraining facility was started, I believe you said this was pursuant to collective bargaining agreements, is that correct?

A That's right.

Q Was a provision for retraining provided in all elllective bargaining agreements with Local 14, if you know?

A To the best of my knowledge, yes, sir.

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Q Do you know if at that time there was any negotiations for any other kind of training on Local 14 equipment?

A Not to my knowledge.

Q Approximately how many people were in the Local 14 training facility or retraining facility at any one time?

A It can vary from 15 to 30, 35.

Q Approximately how many 14-B men at the school at any one time?

A There have been times when there might be seven and times there are none there. It varies, really.

Q On what factor does the size of the school depend?

A It depends upon if the member who is paying for this decides that he wants to come down, he is actually given first preference. It depends really upon who asks to come down.

If they ask to come down we try to afford them every opportunity to come down, so it isn't a firm, hard rule that every week there will be this amount of people there.

Q Is there a time when only as far as you know only 15 or so people want to appear at the retraining

facility, is that correct?

A Sometimes when only 15 people?

MR. KENNEDY: Is that the number, 15?

Q When only a number of about 15 people want to come?

A Yes, there are times when that happens.

Q I believe you said 14-B men are permitted to transfer into Local 14, is that correct?

A With one requisite, they have the license.

Q And is it correct they are allowed to use the school at times even if they don't have a license?

A Absolutely.

Q Are Local 15 men allowed to transfer to Local 14?

A Absolutely.

Q Are Local 15 men allowed to attend a Local 14 school?

A Absolutely.

Q How many Local 15 men do you have in the school?

A You have to appreciate I am hedging because I haven't been involved in that for about six months. When I was there I would say we had maybe ten, five.

Q How many Local 14 men would have been there at that time?

A The members of Local 14?

Q Yes.

A Again, it varied.

Q Would all the Local 15 attending the Local 14 school have licenses?

A Some do and some don't.

Q How many people can this Local 14 school accommodate? What is the maximum capacity?

A Well, when we first started we really bombed with it and what we did, the original thought was going into split sessions when we had a morning class of around 30 or 35 and in the afternoon the same class with the same amount and tried that a while and found out that just didn't work because we had too many people and they weren't given enough time.

So we cut it down and now it is all day long, and even that isn't enough time.

Q Is there room out at the school facility for more than 35 people?

A Yes. We could 135 people there, but nobody would learn anything.

Q Why would nobody learn anything?

A Because they couldn't timewise have enough time on the piece of equipment to learn anything.

Q Is there room for more equipment at the school?

A Yes.

Q How many pieces of equipment are at the school right now?

A I believe we have ten.

Q I believe you stated that non-members sometimes come into the school to improve their skills on other equipment than what they usually run; is that correct?

A Again, it is people who are looking to come into the local and might conceivably only have followed one line, building line, or might want to go on a derrick in the building line.

To afford them an opportunity of getting experience and coming into the local, and there are no 14 men, it is my policy, go ahead, be my guest.

Q Do Local 14 men get preference?

A Yes, because they are paying for it.

Q Is there any particular kind of equipment on which people are seeking the most training at the present time?

A Yes, clamshells and hydraulic backhoes.

Q Any particular reason those are so popular?

A Well, there are more of them and more time, the more equipment, the more chance of going out to work, so

they naturally choose that.

Q You mean more at the school or more on construction sites right now?

A We have more clamshells at the school and I would venture to guess there are more clamshells under our jurisdiction.

Q How about backhoes?

A Hydraulic backhoes. The cable backhoes are fading out, you don't have too many.

Q Are there a lot of backhoes on construction sites?

A Quite a few.

Q Lots of people want to operate those?

A You have to understand the nature of the work. We might have one, we might have two as opposed to five or six clamshells. It serves a different function.

Q How do people find out about the school?

A Through word of mouth, I would assume. I don't really know. The members are aware of it.

Q How does a non-member find out about it?

A I guess through a member.

Q Do you know how many blacks are at the school right now?

A I can't really say right now.

Q Do you know how many were there the last time you were at the school?

A I would say about six or seven.

Q How many of those were members of Local 14?

A There might be two in 14-B, there might be three in 14-B.

Q Do you know of a y non-Local 14 members other than Keith Wilson?

A Do you mean members of minorities?

Q Yes.

A Yes.

Q Do you know their names?

A I can't honestly give you that.

Q Could you supply them for us at a subsequent date?

A I would have to ask the instructors, really. I would probably find out. I don't know if I can get it today.

MR. GLASSMAN: Could you supply this information?

MR. KENNEDY: I asked Mr. Stanton and he said they don't keep any formal list, but I will try to find out the names from the instructors and supply them to you.

MR. GLASSMAN: Thank you.

Q Does the school operate only on Saturdays?

A Yes.

Q What happens to the machinery the rest of the week?

A It is lying idle. Occasionally we have to go down and repair the damage done on Saturday.

Q There is no formal waiting list kept of the school?

A No.

Q What type of help does the school provide for a man who does not have a license, say, a 14-B man?

A What do you mean help?

Q The same help?

A The exact same instruction.

Q The same instruction a licensed man gets?

A Absolutely.

Q You said I believe that when an individual is rejected by the examining board for membership that he may be allowed to work for a period of 30, 60 or 90 days, is that correct?

A That is right.

Q Is that period ever renewed?

A Yes. If he could hypothetically come back after 90 days and still not have the required experience, he could come back again.

Q It is a fact that that period has on occasion been renewed two or three times?

A Yes. Like I said to you before, on occasion even greater than that, and that is why we thought about giving them a test at the school because the work wasn't there, the equipment, to gain their experience wasn't there, so we brought them out to the school and tested them on this equipment to see if they couldn't run in point of fact.

Q In your experience what is the longest period that an applicant you know of has worked on such appointment?

A About a year and a half.

Q Do you know of any individuals who have been told they had to wait to get into this school, wait to be admitted to union membership not because of lack of qualifications bug because not everyone was being admitted?

A You lost me.

Q I will repeat the question.

In your experience has there been individuals who were not admitted because of limitations on the membership size of the union at the time as opposed to the qualifications?

A Not when I was there.

MR. GLASSMAN: I have no further questions.

MR. KENNEDY: I have no questions.

THE COURT: You are excused, thank you.

(Witness excused.)

MR. KENNEDY: Your Honor, that is the extent of Local 14's oral proof.

I have discussed with the United States Attorney's office a proposed arrangement. We would like to put in some more proof only with respect to Exhibit 91. That exhibit shows many of the Local 14 members as never having had a license, and we are obtaining proof that would indicate that they do have or had such a license at one time and do have it now.

THE COURT: How would you do that, by way of affidavit?

MR. KENNEDY: No, two ways, your Honor. You see, your Honor, I have agreed to supply to Mr. Glassman and Mr. Devorkin the index numbers for these people. That will give the United States Attorney's office an opportunity to go over to the City to check with them.

If, on the otherhand, we are unable to reach an agreement. I would simply have a witness come up and testify as to how the information was obtained and simply put in

the exhibit through that witness.

THE COURT: Is that agreeable?

MR. DEVORKIN: That is agreeable. We will make a best effort to obtain an accurate up-to-date listing.

THE COURT: As I said, with all these charts and figures, they are always subject to correction by either side. All right.

MR. KENNEDY: Thank you, your Honor.

MR. BRADY: Your Honor, I have one witness for this morning. I think we are going to run short. I have a number coming this afternoon.

I wonder, with the court's indulgence, if I might be able to call one of the afternoon witnesses and try to get him here, say, at 1 o'clock, or something? Would that be better?

I assumed we were going to run a little further on 14's witnesses.

THE COURT: No. But I would hope -- as I say, I don't know what the situation is going to be tomorrow on this criminal matter I have. I want to complete this week, if I can, this case.

So I will have to ask you to do the best you can, even if it means having people here and not reaching them. I am sure that will be the case this afternoon. I can call one now and see if she can get here a little earlier.

I can start at 1:30 today and then adjourn whenever we get through with your witnesses.

MR. BRADY: Fine.

Shall I take a recess and call the witness now, your Honor.

THE COURT: All right. We will take a

short recess.

(Recess.)

MR. BRADY: I call Mr. Stephen Porter.

S T E P H E N J. P O R T E R, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Porter, would you tell us how old you are?

A Sixty-nine.

Q And for the record, what is your race?

A Negro.

Q Are you a member of any union?

A Yes. 15C.

Q Is that of the International Union of Operating Engineers?

A Operating Engineers.

Q Can you tell me, please, how long you have been a member of Local 15C?

S Since 1948.

Q In 1948 what type of work were you doing?

A I was working as a mechanic for a construction company.

Q What's the name of that company?

A Poirier & McLane.

Q Prior to that time would you tell us, please, did you have any experience in that line?

A Yes. I had quite a bit. I started in the construction line when I was about 14 years old and then I went into tunnel work and then I went into service in an Army engineer outfit, and when I came out I went to work for Poirier & McLane.

Q In the tunnel work, was that in New York?

A Both. I worked -- I came to New York from Boulder Dam to work on the Queens-Midtown Tunnel.

Q What type of work were you doing in the tunnels? Did you belong to any union?

A Pardon me?

Q Did you belong to a union at that time?

A Yes.

Q What union was that?

A In New York it was Local 45 and 102. There were two locals then and they were fighting at the time.

Q Was that an engineers local or --

A No, no. Sandhoggers local. They called it sandhoggers local.

Q In that tunnel work were you given the opportunity to work on any equipment or machinery?

A Yes. We covered a lot of things that the engineers cover now. For example, the locomotives, electric locomotives, diesel locomotives, fixing and running them.

Q What would you do on the locomotives?

A Overhaul them, repair them, run them.

Q How long a period of time had you worked as a sandhogger?

A I would say arom about 1929 until '41, when I went in the service.

Q And in the service you say you were in the Army engineers?

A Yes.

Q What kind of work did you do in the engineers?

A Well, I was a master sergeant in charge of equipment.

Q What kind of equipment was that?

A It was heavy equipment; cranes, shovels, bulldozers. Building air strips in the South Pacific, with the Seabees.

Q When did you go to work for Poirier & McLane?

A I went to work for them in 1945. They had

a government contract disassembling equipment to send overseas to Russia, and I was a foreman there for them.

Q Was that in a yard?

A Yes, in the yard up in Yonkers.

Q And did you continue to work in that yard for a period of time?

A Yes. I worked there until, off and on -- well, we went in the Engineers local after the war was over, in '48 We requested -- the local up in Westchester County wanted us to come in and we wouldn't, and we got in touch with Local 15 and they called us in.

Q Was the whole yard organized at that time?

A Were all the people taken into Local 15?

A Yes. The only thing, the operating -- the crane operators were in 137, but the mechanics were in Local 15.

A And 137 is the Engineers local in Westchester?

A Westchester County.

Q Were there any other blacks in the yard at that time, Mr. Porter?

A Just laborers. No, not in the specialized.

Q Can you tell us how you went about getting into Local 15?

A Well, we contacted the local by telephone and

Tommy Maguire, the president of the local, came up there. And then, after he talked to us, about a week or so after that, they called us down and took us in.

Q Did you have to pay anybody any special fee to get in?

A No. Just the joining fee. I think it was $50 then. It was very reasonable.

Q At that time, Mr. Porter, were there other blacks in Local 15?

A Yes, there were. One family had been in, oh--- the family I met, Waltons, they had been in there years before I went in, the father had, and they worked for some compressor outfit up in the Bronx. I can't remember the name of it. Ingersoll Rand they handled.

Q Did you continue working for Poirier & McLane?

A Yes. I worked for them steadily for, oh, about 19 years, until I retired.

Q Did you get a book with everyone else as soon as you sent down to the union?

A Pardon me?

Q Did you get a union book along with everyone else when you first went down to the union?

A Yes. I was one of the first men taken in.

Q In your period of working at Porier & McLane did you lose any time from work?

A No. I worked steady, most of it six and seven days a week, and I worked out of the state lots of times but I was under the jurisdiction of the New York local. I was never transferred to any of the other locals.

Q Did you ever request a transfer out of Local 15C into one of the other locals of 15?

A No, I did not. I had no reason to because I was permitted to work in 15A and 15 and 14. I worked in 14.

Q Did you work -- you say there were times when you worked out of the shop?

A Yes. Pardon me. I kept my shop local because if things got slow I could go back in the shop, wherein the straight 15 man, unless things were very busy, he couldn't work in the shop.

Q So during the years that you worked for Poirier were there times when for Poirier you worked outside the shop?

A Oh, yes. Quite a lot. More outside than inside.

Q Did you always get the outside rate when you

worked outside?

A Yes.

Q During the 19 years did you receive the same wages and benefits as white members of the local union?

A Definitely. One thing I will say. I had 19 years in and the union gave me credit for 20 years because I said I had worked long enough. I was 62 at the time and I took 20 per cent -- but they gave me credit for 20 years, which at that time was necessary to retire unless it was a disability.

Q Did you retire at that time, Mr. Porter?

A Yes, I did.

Q Did you stay retired?

A No, I went back to work. I got a call one day asking if I wanted to go to work and I did, and I went down here on this tunnel job there, under the Hudson River, for the sewage disposal plant.

Q Do you recall who called you?

A Young Maguire. Tommy Maguire's son.

Q What was the job that you took over down there?

A Well, I went down there to overhaul locomotives and then I ran locomotives down there, and then I ran grout pumps and I was down there for almost three

years.

Q Were there other blacks who were members of 15 down there?

A Quite a few. I had several of them working under me.

Q Were you a foreman then?

A No. I had a little more knowledge than a lot of them.

Q Were there white men working under you as well?

A Yes. Oh, yes.

Q Would you say you were like a lead mechanic?

A Something like that, yes. We had a foreman but -- I would say I was the lead man. Overhauling pumps and locomotives and so forth.

Q When you first came into the union did you require any sponsor?

A No.

Q Or any special testing?

A No.

Q At that time did you have any friends or relatives in the union?

A No, I didn't.

Q Do you have any relatives in the union now?

A No, I don't.

Q Have you had any occasion to go to the union hall for a referral to work?

A About a little over two years -- about two years ago it was I went down to the hall or over to the hall. It's over in Long Island now.

Q Was that over on Northern Boulevard?

A Yes, on Northern Boulevard. That's the only time I was ever in the hall except for meetings and so forth.

Q Can you tell us, please, what procedure you followed at the hall?

A Well, they questioned me and put me on the list, and shortly after I was sent up -- a few -- I went, say it was, quite -- I was sent up to the High Bridge tunnel job.

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Q What type of work were you sent to do.

A Overhauling air drills.

Q How long were you in the hall on that occasion?

A I would say a half-hour, 45 minutes. It wasn't quite an hour,I don't think. The man on the job was taken sick.

Q Do you know, Mr. Porter, if on this occasion there were white members who were in the hall before you were and you were sent out before they were?

A Yes, quite a few fellows that I knew, and they knew me.

Q In your experience in Local 15 have you attended union meetings?

A Yes.

Q Will you tell me, are the blacks treated the same as the whites at these meetings?

A Definitely.

Q Do they have a right to speak up whenever they choose?

A Yes.

Q During this period of time,Mr. Porter, have you had any grievances with contractors?

A With contractors? Only once.

Q When was that?

A I was working up in Connecticut and the superintendent insisted I run a crane and I have never been particular about operating even though I could, and they wanted to pay me the Connecticut scale which was lower than the New York scale.

But I called the president of the local and he got me the New York scale.

Q Which local did you call?

A Well, Local 14 it was, but Tommy McGuire called him and he sent the delegate up there and straightened it out.

Q Straightened it out for you?

A Yes. I got the New York scale and worked up there a couple of years.

Q From your observations over the years are blacks referred to jobs on the same basis as whites are, Mr. Porter?

A From what I have seen, and I might say a couple of fellows that I came in contact with, black, that were down on the job with me had been out working before me since.

Q Do you know of your own knowledge of any blacks who wanted to obtain membership in Local 15 and couldn't obtain membership?

A No, I don't. I know several that applied and got in.

Q Mr. Porter, do you know of any reason why there are more black members in Local 15?

A Well, the only reason I can say, you have to work, and that may be one reason. I don't know, they have it in their mind,but when it comes to pushing and doing it, it kind of gets rough sometimes. That is the only reason I can say, because I have never seen any discrimination since I was in the local and there are quite a few blacks in there now.

Q Would you say that you have worked fairly steadily since you obtained union membership?

A Definitely.

Q Do you recall the longest period of time you were out of work?

A Well, I was never out of work until I retired.

Q Never outof work at all?

A Only on my own. Iused to drink heavily and sometimes I couldn't show up for work.

Q Were you always assigned to do the work that you were qualified to do?

A Yes. Luckily I had several trades and I would fill in.

Q That is what kept you working, I presume?

A I think so.

MR. BRADY: I have no further questions.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Porter, you testified that you were in the Army Engineers during the war?

A Yes.

Q You operated cranes and shovels, is that correct?

A I was in supervising the operation of them. Sometimes I pitched in and gave the fellows a break.

Q Did you ever take the City licensing examination?

A No, because, like I say, I never liked to run a crane. I always had the fear of hurting someone and even though the bosses used to say I was a good operator, Inever had the freedom -- I don't know how you might call it -- but I always had a fear of hurting someone.

Q Mr. Porter, have you ever operated any Local 14 equipment?

A Yes. I have operated gradealls.

Q Where?

A On Linden Boulevard some years ago. It is going back before the licensing were in effect.

Q How long ago, sir?

A How long ago?

Q Yes.

A I would say around 1950, 1949, along in there.

Q How did you come to operate Local 14 equipment?

A They were short of men and the gradeall was a hydraulic backhoe.

Q Who asked you to operate it, sir?

A The union.

Q Which union?

A They called the president.

Q What local?

A Both locals, Tommy McGuire.

Q That is the only time you have operated Local 14 equipment?

A For 14, yes. But for other locals, 825 in Jersey and the Connecticut local -- I forget the number of it.

MR. KENNEDY: I have no further questions.

BY MR. DEVORKIN:

Q Mr. Porter, before you went into the Army you were a member of the Sand Hogs Union in New York City?

A Yes.

Q From 1929 to 1941, approximately?

A Approximately.

Q During that time were you operating such equip-

ment as locomotives and digging machines in tunnels in New York City?

A Yes.

Q Were there many black members of the Sand Hogs between 1929 and 1941?

A Quite a few.

Q Would there be as much as half of the membership of the Sand Hogs?

A No.

Q A quarter?

A I would say a quarter.

Q Did they generally operate machinery in tunnels in those days?

A Yes, till the Engineers took it over. I don't know what year they took it over.

Q Did the Engineers take it over before the war or after?

A Before the war, shortly before the war, I think.

Q Were you in the Corps of Engineers during your entire stay in the Army?

A I don't get that.

Q Were you always in the Corps of Engineers when you were in the Army?

A Yes, but they broke us up as combat engineers.

Q Were you a combat engineer?

A No. They broke us up, our battalion was broken up as combat engineers. One company to go into New Georgia with the 173rd Infanty.

Q Were you in that company?

A Yes, I was a master sergeant in that company.

Q Did you generally find your experience in the Service during the war useful for finding work after the war in New York City?

A Quite -- somewhat, but like I say, I had had previous experience in construction from way back since I was a young kid.

Q Was the experience you had in the war similar to the experience you had before the war?

A Well, yes and no. I mean in the Army I learned more about cranes and stuff than I knew, operating bull-dozers and things.

Q Did you learn how to operate some machinery in the Army?

A Well, I would say I didn't learn to operate, I learned to operate it better.

Q Between 1945 and I guess 1967 you worked for Poirier-McLane?

A Yes.

Q You were steadily employed by them?

A Yes.

Q Did you first get that job on your own after the war?

A Yes. The war was going on when I got the job.

Q But you got the job yourself?

A Yes. I was welding in the shipyard and they made me angry. They said I couldn't quit, so I had been disabled and it didn't mean anything and I walked up and applied for the job and I was made a foreman.

Q Did you generally have a close relationship with Poirier-McLane during your time there?

A Yes, very close.

Q They generally kept you busy?

A Yes.

Q You generally looked to them for your work?

A Not necessarily, because, like I say, I would go out of State on jobs and have to be covered by the New York local.

Q Did you find those out-of-State jobs on your own?

A No, the company would request that I go.

Q Poirier-McLane would request it?

A Yes.

Q When your shop was organized in 1948, how many

mechanics were in the shop?

A There were only two mechanics and the rest were helpers, about four or five helpers.

Q About six or seven people including yourself?

A Approximately.

Q They were all taken into 15-C?

A Yes.

Q You mentioned Tommy McGuire sent you out on a gradeall back in 1950 I believe, is that correct?

A Before 1950, I think it was.

Q Approximately in that time period?

A Yes.

Q Have you ever operated a crane in New York City?

A No. I have oiled them but never operated.

Q Back in 1948, 1949 and 1950, did Local 15 have a branch 15-A?

A It had 15-A and B, I think.

Q What was the 15-A branch for?

A That I couldn't tell. I never did know. The straight 15 I think was the older members, but 15-A I think covered -- I don't think 15 straight covered any more than 15-A.

Q Were there apprentices in 15-A, apprentice operators?

A That I couldn't tell. I am not that familiar with it.

Q Since 1948 you have only gone down to the hall that one time, in 1972?

A Yes.

Q Have you attended Local 15 meetings fairly regularly?

A Fairly.

Q 15-C meetings, I take it?

A Yes.

Q Have you ever been at a 15 or 15-A meeting?

A I was in 15 meetings, yes.

Q Are there occasions in Local 15 or 15-A meetings when union delegates will describe work available in the City?

A Yes.

Q Do they ever sign men up for work at particular job sites?

A Not at the meeting, no.

Q Do they request the men to see them later on sometime?

A That is up to the men. I couldn't answer that.

Q Have you ever heard members of the union at Local 15 or 15-A meetings raise the question of their sons

working on permit or getting into the union in any particular time?

A No.

MR. DEVORKIN: I have nothing further.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Will you have somebody here at 1.30?

MR. BRADY: I believe so. Everyone I called I didn't get any answer and I assume they are on their way here, your Honor.

THE COURT: We will adjourn until 1.30.

(Luncheon recess to 1.30 P.M.)

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AFTERNOON SESSION

(1:35 p.m.)

MR. BRADY: I call Arthur Smith.

A R T H U R S M I T H, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Smith, tell us, please, how old you are?

A Thirty-eight.

Q And for the record, what is your race?

A Black.

Q Mr. Smith, are you a member of Local 15, the Operating Engineers?

A Yes.

Q What year did you first obtain membership?

A 1961.

Q And what particular local did you join at that time?

A Local 15.

Q In 1961 did you have any experience working at the work under Local 15's jurisdiction?

A Yes.

Q Can you tell the court, please, what that experience was?

A Well, I worked with my father when I was 12 years old. I used to go with him to work, on the job.

Q Was your father a member of a union?

A Yes.

Q What union was he a member of?

A Local 14.

Q Do you know how long your father has been a member of Local 14?

A In the neighborhood of 28, 30 years.

Q Now, Mr. Smith, you said that since the time you were 12 years old you were doing that work?

A Yes.

Q And where would you do this work?

A Well, I would go to work with my father.

Q On job sites?

A Right, on job sites.

Q What did he teach you?

A Well, he taught me how to fire and I learned how to handle the equipment, you know, like bulldozers and cherrypickers.

Q How old were you when you applied for membership in Local 15?

A Twenty-six, I guess.

Q Did you have any other experience before joining the union?

A Well, military.

Q What branch were you in?

A Well, I was in the Army.

Q What year were you in?

A '54-56.

Q Where were you stationed at that time?

A Well, I was stationed in Fort Dix, Fort Bragg.

Q What type of work were you doing in the Army?

A The MOS was 630.

Q What is that?

A Mechanic.

Q Did you go to any schools in the service?

A Yes. Maintenance, ordnance.

Q And you got out of the service in 1967, sir?

A Right. '57.

Q Did you at that point attempt to work under the jurisdiction of 15 or obtain membership?

A No. I took another job as a salesman.

Q Did that work have anything to do with engineering at all?

A No.

Q When for the first time did you see anyone at Local 15?

A Well, I spoke to the president of the union in the beginning of '61.

Q Was that Mr. Maguire?

A Yes, Tom Maguire.

Q Did you tell him you wanted to become a member of the union?

A Yes.

Q Did he ask you any questions?

A Well, he wanted to know what experience I had.

Q I presume you told him of your experience?

A Right. The father.

Q What did he say to you then?

A Well, my father and I --

Q Your father was with you at the time?

A That's right. Well, we explained that I had some experience of Local 15's jurisdiction.

Q Did Mr. Maguire say anything about getting into the union or what happened?

A Yes, he did.

Three months later I went into 15?

Q Were you working before you obtained membership? Were you working at the trade?

A Well, yes, with my father.

Q What were you doing with your father?

A Fireman.

Q In '61 you were assigned to that work?

How long did that job last?

A Over a year.

Q How did you get your next job?

A Well, I went to the hiring hall, the union hall.

Q And can you explain the procedure you followed at the union hall?

A Well, you sign up, you know, you get on the list.

Q What do you put on the list?

A Your name and phone number.

Q Anything else?

A What you are qualified to do.

Q Can you recall how long you stayed in the hall that first time before you were assigned to some work?

A I think the next morning I went to work.

Q And for the past 13 years have there been occasions when you have used the hall a number of times?

A Yes.

Q Now, Mr. Smith, have there been occasions when

you have been referred out of that hall before white men have been referred, who were in the hall before you were?

A Yes.

Q Bythe way, have you any other relatives in either Local 14 or 15?

A Oh, father and my brother, Local 14.

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Q What is his name?

A Meyrl Smith.

Q That second job you were sent to, do you recall what the job was or how long it lasted?

A I think it was a firing job, piledriver.

Q Do you recall how long it lasted?

A I guess maybe six or seven months.

Q Did you use the hall again for referral?

A Yes.

Q Do you know how long you were in that time before you went out?

A I went out pretty much in the next day or so.

Q In the past 13 years have you been working fairly steadily out of the union?

A Yes.

Q What other jobs did you get assigned to, Mr. Smith?

A I have gone to work for well points, bulldozers, cherrypickers.

Q Well points, when is the last time you were on well-points?

A Three years ago.

Q Can you recall how many crews there were on that job?

A The last one, maybe two crews on that job.

Q Were there white men working on the job?

A Yes.

Q Before that did you have another well point job?

A Yes.

Q How long ago was that?

A Maybe seven or eight years ago.

Q Were you glad to get that job?

A Certainly, definitely.

Q Do you consider well point jobs as demeaning or undesirable jobs?

A No, not by all means.

Q What is the rate of pay for well point?

A It is top pay.

Q On that other well point job how many men were in a gang?

A Five.

Q Was there more than one gang?

A Yes. There was five or six gangs I think on that particular job.

Q About 30 men?

A 30 men.

Q How many of the men were black?

A Two, myself and another guy.

Q Mr. Smith, in your experience do the black members of Local 15 receive the same wages and benefits as white members?

A That is right.

Q From your observation are they referred out on an equal basis?

A Yes.

Q Have you had occasion to attend the union meetings in these 13 years?

A Yes.

Q Do the black members have the same rights at the meetings as white members?

A Yes, certainly.

Q Mr. Smith, have you ever had any grievances or complaints about contractors?

A Well, no, unless -- on a couple of occasions, yes, with maybe the payroll wasn't right, the money wasn't right.

Q Do you remember any specific occasion when that happened?

A I know a few occasions where I had to relate to the delegates to straighten it out for me.

Q Did they straighten it out for you?

A Yes.

Q Have you experienced any discrimination from the union because of your race, Mr. Smith?

A No.

MR. BRADY: I have no further questions.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Smith, what is your father's name?

A Arthur Smith.

Q Where does he live, sir?

A Jersey, Englewood, New Jersey.

Q Your brother's name is Meyrl Smith?

A That is right.

Q Where does he live?

A New Brunswick.

Q In New Jersey?

A Franklin Park, New Jersey.

Q They are both members of Local 14, isthat right?

A That is correct.

Q How long has your brother been a member of 14?

A Ten years.

Q Have you ever thought about joining Local 14?

A Yes.

Q Have you ever attempted to become a member of Local 14?

A No.

Q Have you ever taken the City license examination?

A No, I didn't.

Q Do you have any desire to join Local 14?

A No, I don't think so, not after all this time in 15.

Q You are happy enough where you are?

A Right.

Q Do you know whether or not your father and brother have City licenses?

A Yes, they both do.

MR. KENNEDY: I have no further questions.

BY MR. DEVORKIN:

Q Mr. Smith, when was it that you and your father went down and spoke to Mr. McGuire about getting into Local 15?

A Around the 1st of 1961.

Q Where did you see Mr. McGuire?

A At the hiring hall.

Q What did you say to him and what did he say to you?

A I asked him what was the possibility of me getting into the local. So he wanted to know what experience I had.

Q What did you say to him?

A I said I have been going out with my father for several years and I thought I was qualified.

Q What did he say?

A Well, let me see, to remember that far back.

Q Approximately, not necessarily word for word, if you can remember.

A He said, he gave me a date to come back after I could prove the experience that I had.

Q Do you remember how long off that date was from the time you were actually there?

A About a month or two.

Q Did he tell you to go anywhere in the meantime?

A He said it was a good idea to continue to work with my father to further my experience.

Q What kind of work were you doing with your father?

A I was firing and I worked with cherrypickers, payloaders.

Q Had your father gotten you those jobs?

A I wasn't actually employed, I was there just for the experience.

Q You weren't getting any money from the contractor?

A No.

Q How long did you continue not to get any money from the contractor?

A I did that for a couple of more months.

Q Then what did you do?

A I went back to the hall, I got a book.

Q Did your father say anything to Mr. McGuire the first time you went down?

A Yes.

Q What did your father say?

A He said he thought I was qualified.

Q You told Mr. McGuire that you were your father's son?

A Definitely.

Q I am sorry?

A Yes.

Q Did Mr. McGuire offer you a job through the union the first time you went down there with your father?

A My father thought it would be a good idea for me and him to work together and spoke to the employer and got permission from Mr. McGuire to let us work together for longer so I could get more experience.

Q Why did you get permission from Mr. McGuire to work for the employer?

A Well, my father was employed with them. He thought it was a good idea to work with him to get more experience.

Q But was it necessary to get Mr. McGuire's permission to do that?

A I had entered the union.

Q This was before you entered the union?

A No, after.

Q But before you entered the union, in the two-month period from the time you first went down there with your father and spoke to Mr. McGuire until you got your book, was it necessary to get Mr. McGuire's permission to keep oiling on this job?

MR. KENNEDY: Objection, he wasn't getting paid for the job.

MR. DEVORKIN: He may still have needed Mr. McGuire's permission.

MR. BRADY: How could he know if it was necessary with the employer or not?

THE COURT: He wasn't getting paid.

MR. DEVORKIN: I understand that.

THE COURT: Well, if he can answer it.

Q Was it necessary in your mind to get permission from Mr. McGuire?

THE COURT: In his mind?

Q Did you believe you had to get permission from Mr. McGuire?

MR. BRADY: I object to that.

MR. KENNEDY: If he wants to ask whether or not he sought permission or obtained permission or asked him, that is all right.

MR. DEVORKIN: The practices in the trade are highly relevant and if this man believed he had to get permission from Mr. McGuire to work on a job, I think I am entitled to find that out.

MR. KENNEDY: It is whether he did.

MR. DEVORKIN: Whether he believed is very relevant.

THE COURT: I don't agree with you, but we will get the answer.

MR. DEVORKIN: I will go on to something else.

THE COURT: What he believes the practice was.

Q Did you in fact get permission from Mr. McGuire at that time?

A Yes, Mr. McGuire and the employer.

Q And after you got your union book did you again ask Mr. Maguire for his permission to work there?

A Well, I had to get permission from the employer if he is going to hire me, on the salary basis.

Q Did you also ask Mr. --

A No. I had to relate to the union and see whether or not they would let me go right to work.

Q Did you work on heavy equipment as a mechanic in the Army?

A Yes.

Q Have you done heavy equipment mechanic's work since you have been in the Army?

A Yes.

Q Did you think that your experience in the Army as a heavy equipment mechanic was useful in the civilian sector?

A Some.

MR. DEVORKIN: I have nothing further, your Honor.

THE COURT: Anything further? If not, you are excused.

MR. KENNEDY: I have no questions.

MR. BRADY: I have nothing further, your Honor.

THE COURT: You are excused.

(Witness excused.)

(Recess.)

MR. BRADY: I call Charles Lebron.

C H A R L E S J. L E B R O N, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Lebron, how old are you?

A Forty-three.

Q And for the record, what is your race?

A Puerto Rican.

Q Are you a member of the Operating Engineers?

A Yes, I am.

Q What local, Mr. Lebron?

A Local 15.

Q When did you first obtain membership in the union?

A 1952.

Q What local of the union did you join at that time?

A At that time I joined Local 15C.

Q At that time, Mr. Lebron, did you have any

experience in the line?

A Just a little bit that I got in the service.

Q How long had you been in the service?

A A little over three years.

Q What kind of experience did you get in the service?

A I was in the Engineer Corps and you learn how to run bulldozers, backhoes, loaders, at that time.

Q What was your first contact with the Engineers, Local 15C?

A I had to -- one of the delegates -- I had written to a lot of concerns when I was in the service, that I wanted to go into construction and run equipment, and Merritt-Chapman & Scott had answered me and they told me to go down to their office, 17 Battery place, at that time, and they assigned me to the Pier 22 in Staten Island.

Q What kind of job is that?

A That's a shop. That's under 15C.

Q What work were you assigned to?

A I was a mechanics helper over there.

Q And Merritt-Chapman assigned you to that job?

A Yes, sir.

Q When for the first time did you have contact with the Engineers Union?

A Oh, about two weeks after I was there I had Mr. Murphy, who was the delegate of the shops at that time, he had come by and told me this was a union shop and would I like to join.

And I says, "Yes, I would."

He said, "Well, we have to see your qualifications here and we will try you out for six weeks and your foreman and your shop steward will talk to me."

Q What happened after that?

A Well, after six weeks, Mr. Murphy came back down again, after he checked with my foreman and the shop steward, and he said, "Everything is all right. We would like you to come down to 15th Street and pick up your book."

Q How long did you stay on the Merritt-Chapman & Scott job?

A Roughly about a year.

Q What kind of work were you doing during that year?

A Rebuilding engines. Taking them apart. Working on all sorts of heavy construction equipment.

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Q Did you learn more about the trade during that period of time?

A Yes, I did.

Q Did there come a time when you left that job?

A Yes. When they were slack and had a lack of work they laid us off.

Q What happened then when you were laid off?

A We reported back to the union hall and told them we were laid off because of lack of work.

After we signed in we were sent -- we sat down there and they called us to send us to another job.

Q When you say you signed in, what did you sign in on?

A On a piece of paper on a pad.

Q Do you recall what you wrote on that pad?

A You write your name, phone number and what you do.

Q How long did you have to wait before you were assigned to some other job?

A About three or four days.

Q Do you recall what job you were sent to?

A I was sent -- let me think, sir. I went to Foundation Equipment in Long Island City.

Q What kind of work were you doing with Foundation?

A Mechanic's helper there.

Q Was that also a shop job?

A Yes, that is still 15-C.

Q How long did that job last?

A Four years.

Q What happened after that?

A We got laid off on account of lack of work and reported back to the union hall and signed up again and sat down there.

Q Do you know how long you had to wait before you were assigned out?

A At that time I think I only waited about two days really because things were good in 1958, so we went right out.

Q From time to time did you use the hall for referral?

A Yes, I did.

Q In your opinion, Mr. Lebron, are Puerto Ricans and black members assigned out for work on the same basis as white members?

A So far as I know they are.

Q Do you have any complaints of discrimination against the union?

A No, I don't, sir.

Q Did there come a time, Mr. Lebron, when you changed from 15-C to Local 15?

A Yes. That was around 1960 or 1961.

Q Where were you working at that time?

A Freedom Land.

Q What kind of work were you doing?

A Mechanical work.

Q Did you ask to transfer to 15?

A Yes, I did.

Q Did you have any problem or trouble getting that transfer?

A No, I didn't, sir.

Q Did it change the type of work you were doing?

A In certain status it did.

Q What do you mean by that?

A When you go on the outside and are 15, you go operating machines.

Learning in the shop, you can learn about them but you don't do it, operate, in the shops.

Q You learn to operate machines in the shop?

A Yes, I learned in the shops.

Q How long were you working in the shops before you learned how to run?

A That was all the shops I was in through 1952 I

picked up whatever knowledge I could; had some of the other demonstrators come out and teach us when they had time. We asked them and they would run us around on some of the machines there, so from 1954 actually to 1960.

Q What type of equipment did you learn to run during this period of time?

A Cherrypicker, roller and a loader.

Q What job are you doing at the present time?

A I am operating a cherrypicker.

Q Are you licensed?

A Yes, I am.

Q You learned how to run in the shop?

A Yes, I did.

Q And took the City test?

A Yes.

Q How long have you had your license?

A About ten years.

Q During the past number of years have you also been assigned out to operate dozers and loaders?

A Yes, I have.

Q Have there been times, Mr. Lebron, when you have been assigned out before white members who were in the hall before you were?

A Yes, sir.

Q Have you ever worked on a well point gang?

A Yes.

Q What is the rate of pay on well point?

A Offhand it is the same as the operators, 10.57 roughly, whatever it is right now.

Q Do you recall the last time you had a well point job?

A To be honest with you, about six years ago.

Q Do a lot of white men get assigned to well point jobs?

A Yes, they do.

Q Mr. Lebron, do you have any relatives in the union at the present time?

A No, I don't have any at all.

Q Did you have any relatives in the union when you first obtained membership?

A No, I didn't.

Q Mr. Lebron, have you had any grievances or problems with contractors throughout the years?

A No, sir.

Q No complaints at all? You got any complaints about union representation?

A No, I don't.

Q Have you experienced any discrimination from the

union during your years of membership?

A No.

Q Do you attend union meetings, Mr. Lebron?

A Yes, I do.

Q Tell me, do black and Puerto Rican members have the same right to speak at meetings as everyone else?

A Yes, they do.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Lebron, where were you born?

A Bellevue Hospital.

Q New York City?

A Right.

Q How long have you lived in New York City?

A All my life, 43 years -- I am living in the Island now.

Q Where?

A Port Jefferson.

Q Where was your mother born?

A In Ponce, Puerto Rico.

Q And your father?

A Same place.

Q Do you speak Spanish?

A Yes, I do.

Q Do you know any other Puerto Ricans in Local 15?

A Yes, I do.

Q How many?

A I would say about 10 or 12.

Q Are they good friends of yours?

A They are associates.

Q Do you work with them?

A I work with them.

Q You testified, I believe, you were sent out to Pier 22 with Merritt-Chapman back around 1952?

A Yes, sir.

Q Actually you got that job on your own, I take it?

A I got that job and I joined the union from that shop on.

Q Merritt contacted you in response to a letter?

A Right.

Q After you lost that job you went backto the hall and waited a few days for another job?

A Yes, I did.

Q How many men were in the hall at that time?

A About 30, 40 men.

Q How many men did you go down with who were also

laid off from Merritt-Chapman?

A Six.

Q Were the six of you the only mechanics in the hall?

A No, sir.

Q Do you know how many other mechanics were in the hall?

A Personally that I knew, I would say maybe another five or six.

Q Were you a mechanic at that time or a mechanic's helper?

A A helper at that time.

Q The other six, were they mechanics or helpers?

A Three mechanic's helpers and the other two were mechanics.

Q How about the other five men you knew in the hall, were they helpers or mechanics?

A Another two were mechanics, Class B, and the other ones were helpers.

Q Do you know when the other three mechanic's helpers from Merritt-Chapman got their next job?

A They went out the same day I did to different shops, however.

Q And the third fellow?

A I saw him at a meeting and he went out another day after we did.

Q Do you have a Class C license from the City of New York to operate a cherrypicker?

A Yes, I do.

Q Have you ever held any other hoisting license?

A No, sir, I haven't.

Q You testified in response to one of Mr. Brady's questions that there were occasions when you went out before other white men who were in the hall before you, before you went out, is that dorrect?

A Yes, I did.

Q Can you tell me the last occasion that that happened?

A Fifteen months ago.

Q How long did you stay in the hall before you were referred out?

A An hour.

Q Are you a mechanic B or a mechanic A?

A That's only in the shops they have classifications like that.

Q So you have just simply been a mechanic?

A Right, sir.

Q What kind of job were you referred out to 15 months ago?

A To operate a cherrypicker.

Q How many other men in the hall at the time?

A I would say maybe 20 or 30 guys at that hour.

Q Which day of the week was that? Do you know whether it was a Monday or not? That's all I want to

know.

A It was a Tuesday.

Q Do you know if there were any other cherrypicker operators in the hall?

A Not that I know of.

Q Before that 15-months-ago incident, can you tell us another time when you were sent out before white men?

A No, sir, I can't remember.

Q Have you spoken to any business delegates about this case?

A Business delegates? No, sir.

Q How did you come here today? Did somenody call you up?

A The lawyer did, sir.

Q He is the only person you spoke to about this case?

A I have spoken to him, right.

MR. DEVORKIN: I have nothing further, your Honor.

THE COURT: Any further questions?

MR. BRADY: No, your Honor.

THE COURT: You are excused.

(Witness excused.)

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MR. DEVORKIN: Your Honor, could I make a request?

Mr. Lebron and I believe one of the witnesses Mr. Brady is now going to call are not on his witness, and I wonder whether we could have by the end of the trial today or by tomorrow a list of all the 15 witnesses that Mr. Brady is going to call from here on out, that are not on his witness list.

THE COURT: Yes.

MR. BRADY: I'll do that, sir.

Mr. Vance.

W I L L I A M V A N C E, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Vance, for the record, what is your race?

A My rates? Well, I don't know exactly. I think it's $10 --

A No. Your race.

A Oh, my race is Negro, American Negro.

Q And how old are you, Mr. Vance?

A I am 62 years old.

Q Are you a member of Local 15 of the Operating

Engineers?

A I am.

Q For how long a period of time have you been a member?

A I joined the local in 1957. That's about 17 years.

Q At that time what had been your work experience?

A My work experience, I had been a mechanic from childhood. Since I was about 12 years old.

Q Had you worked on heavy equipment?

A Yes.

Q Tell us, please, what was your first contact with the union?

A My first contact with the union in the year of 1956. I got a job as a mechanic and it was not a union shop.

Q It was not a union shop?

A It was not a union shop when I got the job?

Q Can you remember the name of that job?

A Expert Concrete Breakers.

Q Where was that shop located?

A 4417 Purvis Street, Long Island City.

Q You got that job on your own?

A Yes, I did.

Q How did you find out about the job?

A Through the newspaper.

Q What job title were you hired into?

A As a mechanic.

Q Did there come a time when you had some contact with the union?

A Yes.

Q Tell us how that came about?

A Well, the shop had a few mensthat was working out of Local 29, they was union mens.

Q Now, Local 29, was that an engineers union?

A No, sir, it isn't.

Q Do you know what union that Local 29 represents?

A They represent the top workers in the heavy equipment, jack hammers. They run jack hammers and break pavement.

Q Drill runners and miners?

A Yes.

Q What happened in the shop?

A Well, in the shop, I felt that -- I always had been a union man, even before I went into the service, so I thought it would be a good idea if we tried to get

the union the shop.

Q So what did you do?

A I inquired from the guys I worked with who was the man to contact for this local so I found his name and I called him up.

Q Can you recall who that man was and where you called?

A His name was Donny Rogers, and I called him up at the local hall.

Q What Local?

A Local 15. 15 and 15C had the same hall.

Q What did you say to him and what did Mr. Rogers say to you?

A Well, I told him that the shop was there and I had been working there for a few monrhs and I was concerned about getting in the union since I had the job and I wanted to know the possibility of organizing the shop or doing whatever is necessary to get me in the union.

Q What did Mr. Rogers say?

A He said, "I'll be out to see you.

Q Did he come out?

A He did the next day.

Q What happened then?

A Well, he questioned me for my ability and he told me if I can come down to the meeting on Thursday or if it was the following week, that I could get my book.

Q Did he organize that shop?

A Yes. They had two mens working there, myself and another mechanic working under me, so he took both of us in the shop.

Q And that became a union shop thereafter?

A Right.

Q Now, how long did you stay with the expert?

A I would say about 10 or 12 years.

Q During that time did you have any grievances that the union handled for you?

A I had a small, slight accident, slight agreement -- disagreement, it wasn't very much.

What happened, I was working on the job and I got hurt on the job and I went to the hospital and the doctor told me don't go back to work. So in the meantime the boss hired somebody else.

So when I came to work he said, "Will, I would like to have you. You come back next week, I hate to let a man off."

At the time I needed the work because I'd been

in the hospital and I called my delegate and I told him I need a job because the guy wanted to put me off for a week. So he came to the job and he straightened it out.

Q Did he get you your job back?

A Yes.

Q Did there come a time when you left Expert?

A Yes.

Q When was that?

A Oh, I would say about a month after this incident. I wasn't very happy with the job so I called Donny Rogers and told him that I wasn't very happy there, so he says, "Well," he says, "if you need another job just let me know."

I said, "Yes, I would like to have something else."

So he got me a job with Crimmins Construction.

Q How long between the time when you asked and the time when you got the job? How long was it?

A Oh, I would say about a day.

Q And at Crimmins what was the job you were doing?

A I was a mechanic.

Q How long did that job run?

A Oh, about two or three years.

Q And what happened to that job?

A Well, it got slow and they had a layoff.

Q Were you laid off then?

A Yes. I was laid off. I was the last man came on the job so I happened to be the first man laid off.

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Q Were you laid off then?

A Yes, I was.

Q Did you get another job?

A Yes.

Q Did you get that through the union?

A Yes.

Q How long did you have to wait?

A A matter of two or three days.

Q Where were you sent then?

A I was sent to a job on Amsterdam Avenue called Lincoln Towers.

Q Was that another job in the shops or outside?

A I went outside, an outside job.

Q What were you doing on that job?

A Mechanic.

Q What rate of pay did you get?

A 15,I got 15pay.

Q How long did you work that job?

A I worked that until it finished, about two and a half, three years.

Q Did you ever ask to transfer into 15?

A Yes.

Q When did that happen?

A After I was there two or three weeks.

Q Who did you ask?

A The delegate came out to the job to ask how things were going and I asked for a book. I said I would like to get transferred to 15.

Q What did he say?

A He said, "Why are you waiting, you could have had it. You want me to put it in your hand?"

I said, "No."

He said, "Come down Thursday, bring the initiation fee."

Q Is that what happened?

A That is what happened.

Q Since that time have you been working out of 15?

A Yes, I have.

Q Tell me, Mr. Vance, how do you get your job?

A Through the local.

Q What procedure do you follow?

A I follow the same procedure as other men. I go down to the union hall and tell them the job is finished and I need a job. And if they have something handy I go down and get it. If they don't have something handy I come down and sign the list and as soon as they get a job they send me out.

Q Have you experienced any discrimination on job

referral?

A No, I haven't.

Q Have there been occasions when you have been sent out to work ahead of whites?

A Yes.

Q Where are you presently working?

A Water Tunnel Contractors, Van Cortlandt Park.

Q What is your job?

A Maintenance foreman.

Q Have you been foreman on other jobs?

A Yes, I have.

Q How long have you been maintenance foreman on Water Tunnel Contractors?

A About four years and three months.

Q Are there other black men who are operating engineers on that job?

A Yes. From time to time I have had one, two or three. At present I have one black man and 26 white men.

Q Mr. Vance, have you ever been assigned to the work of well points?

A Yes, I have.

Q Do you consider that a demeaning job?

A What do you mean by demeaning?

Q Do you think that is a bad job to get?

A No, I think it is a good job.

Q Why do you think it is a good job?

A The rate is still high, a little more money and you have outdoor work and work under ideal conditions.

Q To your knowledge do white men get assigned to well point jobs?

A Mostly I was on with mostly white; two or three colored. Whatever the union has available for that job.

Q Mr. Vance, do you operate any equipment?

A No, I don't. Fortunately I have always been a mechanic and they offer me a job I tell them I would rather maintenance. That is my line. I hate to change.

Q Have you worked steadily in that line?

A Yes, I have.

Q Have you had any long periods of layoffs?

A No, sir, I haven't.

Q To your knowledge, do the black members receive the same rate of pay in benefits as white members?

A Yes.

Q Do you attend union meetings?

A Yes, I do.

Q Do the black members have the same opportunity to speak at those meetings?

A Yes.

Q Have you experienced any discrimination at all from Local 15 because of your race?

A No, I haven't.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Vance, in 1956 when you were working at that non-union shop is it fair to say that the shop was organized into the union?

A I beg your pardon?

Q That the non-union shop was organized into the union?

A Organized in 1957, the year I got in.

Q Before that where had you worked as a mechanic in New York City?

A I had my own business.

Q Where was that?

A 188th Street and Third Avenue.

Q What kind of business?

A A gas station, doing mechanic's work.

Q You did mechanic's work there?

A I was the mechanic there.

Q How long did you have that gas station?

A I came to New York in 1957 and I immediately bought the station and organized it after I was here about two months.

Q What was the name of that shop again that you worked with?

A The gas station was operated under the name of Tilo Gas Station.

Q No, not the gasoline station but the shop that you went to.

A Expert Concrete Breakers, Incorporated.

Q You found that job on your own?

A Yes, through the papers.

Q You stayed there about 10 or 12 years?

A Roughly.

Q Then you got a job with Crimmins?

A After I left there I went to Crimmins.

Q That would be about 1969?

A No, that would have been I would say --

Q 1967?

A I would rather say 1967 or 1966. It is hard to remember exact times. I was too busy working than with trying to keep up with the time.

Q You stayed with Crimmins until about 1970?

A I would say about 1970 or 1969.

Q When you were with Crimmins was that in the shop or outside?

A I was in the shop.

Q All this time you were in 15-C?

A Yes.

Q In 1970 you got referred to an outside job?

A Yes.

Q You stayed there about -- you have been there ever since?

A No.

Q What is the name of the contractor with whom you had the outside job?

A Crimmins, a concrete outfit. I am trying to think of the name, out in Hicksville. I can't recall it.

THE COURT: Was that the Lincoln Towers?

THE WITNESS: Yes.

Q You finished that job around 1973?

A Around 1973 or 1972, one ofthose years.

Q And you have been on the Water Tunnel job ever since?

A Yes. I was foreman on that job, too, after I was there a while.

Q On the Lincoln Towers job?

A Yes.

Q When you went into the hall on these three occasions in what order did you sign the list?

A Whatever order I was in line. Form a line to go to the desk and there are two delegates or business agents making out the list on Monday morning.

If you got there on Monday morning, if you were second in line you signed second. If I was third I signed up third.

Q Did you get into the hall before the list was brought out?

A Sometimes I did and sometimes I didn't. Most of the time I tried to be there at 7 o'clock so I would be first, second or third in line.

Q Was there another group of men with you?

A I was in line.

Q Do you know what order the men were called off the list?

A I think it was called in order to the ability and the job available that they can do.

Q Were you always at the top of the list?

A Well, I was only there a couple of times and I had no waiting period. As soon as they got a job I was called out.

Q You have only been at the hall a couple of times?

A Two or three times. I don't know how many times exactly but I know I never went and stayed no length of time. I had gone to work.

Q You said you recall a couple of times, maybe just once, before some white men were?

A Well, if I go in the hall and sign the list and I sit down they would call me, a lot of white men were behind me.

Q Behind you on the list?

A That is right.

Q That is what youmeant by being sent out before white men?

A Yes.

Q This Water Tunnel job, who was the contractor on that?

A Well, I don't know the contractor's name, they got so many names, Walsh Contractors, and it was a joint venture.

Q Which one do you work for?

A I work for Water Tunnel Contractors, a joint venture.

Q Is that a Federal-funded job, if you know?

A I believe it is, but truthfully I don't know.

Q Have you ever seen a Federal contract compliance

officer on the job?

A No, I haven't.

Q Do most mechanics in 15-C work steadily?

A Most of them I know work steadily that I am acquainted with.

Q Mechanics are only laid off once in a while?

A In the slow seas n, in the wintertime when things slow down.

Q 15-C mechanics are shop mechanics?

A Yes.

Q It is rare for them to be laid off?

A Well, whenever the contractor runs slow he has to lay off some and he always lays off the last man that comes on the job.

Q What do mechanics usually do to find work in other shops?

A Call his delegate or go to the hall. The usual procedure is to go to the hall.

Q Have you ever heard this lawsuit discussed in a union meeting?

A No, I don't recall hearing it discussed at any length.

Q Have you ever talked with the union delegate about testifying here?

A Yes.

Q Who did you speak with?

A My business agent.

Q Who is that?

A Young Tom McGuire.

Q What did he say to you?

A He told me, he said, called me up one time and asked me did I have any doscrimination on the union. I said no, and he said, "Will you testify to that?" And I said, "I will." He says, "Okay, when I need you I will give you a ring."

Q Is that what he did?

A Yes.

MR. DEVORKIN: I have nothing further, your Honor.

MR. BRADY: Just one question.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Vance, do you have any relatives in the union?

A Yes.

Q What relatives?

A I have my son in.

Q Do you know what your son is doing?

A Maintenance man.

Q Do you have any other relatives in the union?

A No, I don't.

Q Did your son go through the school, do you know?

A Yes.

Q Do you know how long he had to wait before he went to school?

A Well, when my son got in the school there was -- they were just setting up the school, so they didn't have enough equipment to put everybody in.

So I spoke to Danny about my son going to school and he said, "Vance, we are waiting for some more equipment and as soon as we get it we will let you know."

Q Do you know how long it took him to get through the school, Mr. Vance?

A I wouldn't know exactly how long, but I imagine about a month or two.

Q Has he been working since then?

A Yes. Since he graduated from the union school they took him in the local and gave him a job.

MR. BRADY: I have no further questions.

Q Was he retained to be an operator at the school, Mr. Vance?

A Yes.

Q He works now as a maintenance man?

A He works now as a maintenance man.

Q Who does he work for, if you know?

A I really don't know.

Q Do you know how much he made in 1973?

A I don't know.

Q Would it be under $12,000?

A I don't think so.

Q When was his date of initiation?

A I don't know the exact date.

Q Would it be about February of '73?

A I wouldn't know the exact date because he doesn't live with me. He is a grown man and I don't recall the exact date. When you spoke to the --

A I'd be willing to say he's been in the union now about a year and a half or two years, maybe closer to two years than a year and a half.

Q When you spoke to the union delegate about getting your son in the school, what did you say and what did the delegate say?

A I says, "I understand that we are having a

school and when it starts up I would like to get my son in. Then he explained to me that they had already gone through the plans of starting up and had a few pieces of equipment out on the lots, and they was taking guys in but they had to wait for more equipment and set the place up.

Q Do you know how your son got his union book?

A Yes.

Q Did you have anything to do with him getting his book?

A Well, I don't know what you mean. You mean -- in what phase you mean?

Q Did you have to do anything or did you help him get his book?

A I loaned him some money for his dues.

MR. DEVORKIN: I have nothing further.

MR. BRADY: Nothing further.

THE COURT: Thank you. You are excused.

(Witness excused.)

MR. BRADY: I call Mr. Williams.

J O H N W I L L I A M S, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Williams, for the record, what is your race?

A Negro, American born.

Q Are you a member of Local 15, the Operating Engineers?

A Yes, I am.

Q How long, Mr. Williams, have you been a member?

A Since 9/12/70.

Q '70.

A Since '70. 1970.

Q At that time, Mr. Williams, what were you doing before you obtained membership in the union?

A I was working with the sandhogs of Local 147.

Q How long had you been a sandhog?

A About 29 years.

Q Had you obtained any operating engineers experience as a sandhog?

A Yes, I did.

Q Tell the court what that experience was.

A Well, they have an agreement that the engineers is not allowed to go on the compressed air to do hog work, so that's how I obtained different operations because I was a sandhog.

Q Were you operating earth-moving equipment?

A Earth-moving equipment.

Q How did you come to change from a sandhog local to the engineers?

A Well, No. 1, I wanted to better my condition and I wanted to come up, out of the hole, and I thought it was an opportunity for me to do so.

Q So what happened? How did you do it?

A Well, through the engineers and the labor guide you always find out the different sites that is going to be let, and this and that and the other, and I learned about this particular job that I am on now.

Q What is the job that you are on now?

A I am on a water tunnel, construction.

Q What did you do?

A Well, I went to -- I was told to go to the 15, to the union hall, to try to obtain a 15 book.

Q Do you recall who told you that, Mr. Williams?

A Well, the fellows on the job. The other

engineers that worked up top told me how to go about it.

Q Were they white or black?

A White. This was white.

Q And did you go down to the union hall?

A Yes, I did.

Q About what time?

A I must have went down there in the morning about -- must have been about 10 or 10:30, and I found out there was nobody there. I had to be there in the morning, because they shape out, so I went the following morning.

Q What happened then?

A Well, I browsed around because I didn't know any of the members, didn't know anybody there. So I wanted to find out who I should see to obtain this particular book. So I was referred to Mr. Maguire, and he spoke to me, I spoke to him, told him my experience. He said, "Well, when this job comes up"--

Q The job you were asking about?

A Asking about; he said he would keep me in mind. The job wasn't let at the particular time and I was working within the sandhogs at the particular time.

When the job started, must have been a couple of weeks later, I went down there, he remembered my face,

and I told him my ability in operating machinery and he sent me out with a permit. Didn't give him a book immediately.

Q But you did get the job you wanted.

A I did get the job, yes.

Q How soon therefter did you get your book?

A I must have worked about five weeks, somewhere in that neighborhood. Then I was told that, you know, I would have to get the initiation fee and what-not.

Q Who told you you had to come down for a book?

A The foreman in the daytime shoves the shop steward on all jobs. He told me I would have to obtain a book if I wanted to stay.

Q Did you have any problem obtaining the book?

A None whatsoever.

Q Did you have to pay anybody under the table to get that book?

A No, sir.

Q Since that time you have been working steadily on that job?

A Yes, sir, I have.

Q Mr. Williams, have you had the opportunity to attend any union meetings during this period of time?

A Occasionally I go.

Q From what you observed, are the black members permitted the same rights at a union meeting as you are?

A As far as I see.

Q How long a period of time now have you been working under Local 15's jurisdiction?

A 1970.

Q About how much money did you make last year? Do you know?

A I would say about 25,000.

Q Have you had any grievances with your employer on the job?

A No, I haven't.

Q Have you had any discrimination from the union at all?

A No, sir.

Q Are there other black men, members of Local 15, on that job, Mr. Williams?

A Yes, there is.

Q Can you tell the court what they are doing on the job?

A Well, we have some. We have two black pump men, which is a very good job, and we have a few maintenance that works in the shop.

Q Have you seen any black foremen?

A We have two of them on our particular job.

Q The job that you obtained, was that operating equipment?

A Beg pardon?

Q You operate equipment?

A Yes, I do.

A What equipment do you operate?

A I work, I operate a pay loader. They call it a 988. It's an earth mover.

Q At the time you obtained membership did you have any friends or relatives in the union?

A I had two friends, no relatives.

Q The friends, are they black or white?

A Well, there are more than two friends. They are black and white. Because the sandhogs work with the engineers, so that made me acquainted with a lot of them.

MR. BRADY: I have no further questions, your Honor.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Williams, are you familiar with Local 14?

A Not too much. Not as much as 15.

Q Do you have any desire to become a member of Local 14?

A Not really, sir.

Q Have you ever taken the New York City license examination?

A Yes, I have.

Q On how many occasions?

A I've taken the cherrypicking operations which I obtained now.

Q And you have your cherrypicker license?

A Yes, sir.

Q That's a class C license, is it?

A Yes, sir.

Q Have you ever taken any of the other licensing examinations?

A No, I haven't.

MR. KENNEDY: I have no further questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Williams, I believe you said you were a member of the sandhogs for 29 years, is that correct?

A Yes, sir.

Q What specific type of earth-moving equipment did you operate for the sandhogs?

A Well, we operated the little motors that pull the muck trains. We have also mucking machines. The same thing as you run up on top.

And we also have maintenance under compressed air which is burning and welding.

Q Any other earth-moving equipment?

A Well, there wouldn't be any more that would be in the tunnel on the compressed air than that.

Q The mucking machines, are they the same type of machine used by Local 15?

A Yes.

Q Do you require a license to operate a mucking machine?

A I have. In past years I have. Have I acquired what?

Q A license to operate a mucking machine?

A No, it's not required in the compressed air.

Q Do you know if any other equipment used in the tunnel requires a license?

A None that I know of.

Q What kind of pay did you get when you were

with the sandhogs?

A Well, it varied because pays have went up since I've been in. You would make -- you are talking about yearly, sir?

Q No. Hourly rate, please.

A Hourly rate? About -- I forget now -- about $26 or $27 a day, but the rate has went up since then, so I coudln't very well give you an accurate figure.

Q When you left the sandhogs and joined Local 15 for the first time did your rate of pay go up?

A Rate of pay was lower than what I am making now, if this is what you are asking.

Q I think you have got the wrong question.

THE COURT: Was it higher than what you got as a sandhog?

THE WITNESS: The rate of pay I am getting now, is it higher?

THE COURT: No. When you left the sandhogs.

THE WITNESS: Yes. It's raised since that time. It's higher now than it was.

THE COURT: No. At that time.

THE WITNESS: No.

THE COURT: About the same rate of pay when you left the sandhogs and went to Local 15?

THE WITNESS: No. It's not, sir. I don't want to seem dense. I want to get the question right.

THE COURT: Was the rate of pay the same at the time you left the sandhogs in Local 15?

THE WITNESS: No, it wasn't the same.

THE COURT: Did you get higher than what you got in the sandhogs?

THE WITNESS: Yes, the rate of pay in the engineers was higher than what I got when I was in the sandhogs. That's what I said, to better my conditions.

BY MR. GLASSMAN:

Q You said, I believe, that one of the reasons for leaving the sandhogs was that you wanted to come out of the hole. What did you mean by that?

A Well, sandhogs, they work under compressed air, they work underground, and, well, that's -- some jobs they have would be on top, but the most of the sandhogs they work underground, and I just was kind of getting of age and I figured maybe I would like to come upstairs.

Q Well, better rate of pay, No. 1.

A And I think it's more healthier for myself. That's my reason for moving.

Q When you were with the sandhogs, do you know about what per cent of the sandhogs were black?

A About, I would say -- about 35-65.

Q Well, white 65, 35 blacks, in that neighborhood.

Q Is there always a shop steward on every job of local 15?

A Yes, there is.

Q Is he always a member of Local 15?

A They are, yes, sir.

Q I believe you stated there were two black foremen on your present job?

A Yes, there is.

Q Could you name them for us?

A One is George Anderson.

Q And the other?

A One Mr. Bill Vance, the man who sits on the stand.

Q Mr. Vance is a maintenance foreman, correct?

A Maintenance foreman.

Q What kind of work does Mr. Anderson do?

A He is a maintenance foreman.

Q When did you get your cherrypicker license?

A Three years ago.

Q Did you need a cherrypicker license to get into Local 15?

A Oh, no. No, sir.

Q Have you ever worked a cherrypicker since you got your license?

A No, because I have been a mucking machine operator and there was an opportunity to me if I get them, I'll have a chance, so I thought it was best for me to get them. I haven't had a chance to work with them because I've had no need for them.

MR. GLASSMAN: No further questions, your Honor.

BY MR. KENNEDY:

Q Mr. Williams, is there hoisting equipm-ent in the shafts of a tunnel contractor?

A Is it a host of equipment?

THE COURT: Hoisting equipment.

A Yes, sir, it is.

Q Do you know who operates that equipment?

A Yes, I do.

Q Local 14?

A Local 14.

Q Do you know if that equipment has to have license, sir?

A I think so.

Q And are there cranes on that job, sir?

A Yes, as far as I know.

Q Up top?

A Up top.

Q And do you know whether or not that equipment has to be licensed?

A Oh, definitely.

MR. KENNEDY: I have no further questions.

MR. BRADY: Nothing further, your Honor.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. BRADY: Your Honor, that's all the witnesses I had. I can, if I have to, for a moment, talk to the business agent and put the business agent on the stand for a while.

THE COURT: All right.

We will take a short recess.

(Recess.)

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MR. BRADY: Mr. Daniel Murphy.

D A N I E L J.M U R P H Y, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Murphy, will you tell us, please, by whom you are employed?

A Business agent for Local 15.

Q How long have you been a business agent?

A Five years -- excuse me, four years. July of 1970.

Q Are you familiar with the Local 15 Apprentice Training School?

A Yes, I am.

Q Are you associated with that school in any way?

A Yes. I am a supervisor of the school with business agent Frank Guma.

Q How long have you been a supervisor?

A Since it started, December, 1970.

Q How frequently does this school have classes?

A On day a week, on Saturdays.

Q Can you tell me, please, when the first class graduated?

rp2 Murphy-direct

A February -- I am not sure. I can see it in front of me because I was going over the record, but the year doesn't hit me right now.

Q Can you tell me, please, if you know, how many men graduated in the first class?

A I think it was six.

Q Do you know how many of those men were black?

A Four.

Q At the present time how many men are in the school?

A 53.

Q Do you know the minority breakdown?

A Yes. It is 36 black in the school, minorities.

Q Do you know when the last class graduated?

A January of this year.

Q Do you know the minority population of that class?

A No, I don't, to be honest with you.

THE COURT: Can we get a statement agreed upon about this for each year and the number of black and the number of Spanish named and the number of whites and those who graduated by the same category?

MR.BRADY: I meant to do that and unfortunately I didn't think I would be putting Mr. Murphy on at this time.

THE COURT: It might be easier and there might not be any dispute about it.

MR. DIVORKEN: I have received from Mr. Brady records of files of current members and past members of the school and I have somebody going through that to do that very thing, and I hope to have it done.

MR. BRADY: I have it broken down already and I will show it.

THE COURT: Sometimes it is easier to get these things in a list if everything is agreed upon.

MR. BRADY: I have it in my office, as a matter of fact.

Q Mr. Murphy, who determines when a student graduates?

A Well, we have instructors, besides ourselves, but Frank Guma and myself watch each candidate when they come to the test to be graduated.

Q Can you tell us what criteria you base your test on?

A Well, we design -- as a matter of fact, I designed the test myself, so the man can give us the, as much as it is on the outside, the same type of work that we think a contractor will accept without screaming.

Q Without screaming?

A In other words, if we refer a guy to the job and he can't handle it, he gets over $100 a day with benefits and unless the guy can produce, I being the business agent the contractor screams that the man can't handle the job.

Q Have there been occasions when you received such calls?

A Many times. That is why I set up the test.

Q Do you have time limitations in the test as well?

A Yes, I do.

Q Why is that?

A To see if the man can produce, prove that he can produce.

Q Are you familiar with Mr. Perry McQueen?

A Yes, very much so.

Q Was Mr. McQueen a student at the school?

A He was a student, yes, sir.

Q Do you recall when he first started at the school?

A Yes, I do.

Q When was that?

A The date? Early 1971, I think it was.

Q Do you know if Mr. McQueen continued in the school?

A No. I sent Mr. McQueen a registered letter telling him he was kicked out of the school after being absent many times.

Q In this letter did it list the dates?

A It did.

Q That he was absent?

A Yes.

Q Was Mr.McQueen advised --

A Yes, everyone is advised when they come, they fill out an application, I guess you call it an application, a resume. There are only two ways of getting out of the school, either kicked out for lack of showing up or graduating.

Q In other words, a man can go to this school for a long period of time?

A Yes. We have one famous character in the school since the school started. He is still there.

Q Since 1970?

A Yes.

Q What is his name?

A Vladimir Barraro.

Q Does his miss days?

A Very few. I don't think he missed two days in four years.

Q He is still in the school?

A Yes, he is.

Q How long does it take the fastest man to get through the school?

A We have guys that possibly had some experience come into the school, real eager to learn, they get out of there in five or six weeks.

It is up to the individual guy. We don't have so many weeks or hours. When a man produce, we graduate him.

Q How about Mr. McQueen, was he advised of the number of absences?

A Positively, every one is.

Q What is the number of absences which you permit?

A We allow five.

THE COURT: Unexcused absences?

THE WITNESS: Yes, I am sorry, unexcused absences.

Q Has anyone been terminated after five, exactly five?

A No, we always try to give them a little leeway, definitely.

I send the letters or have them sent and I have never kicked anyone out for only five.

Q Did you have a conversation with Mr. McQueen before he was terminated from the school?

A Yes, a couple of times.

Q Did you advise him of the fact that he wasn't going to school?

A Yes, I did. As a matter of fact, if I remember right, I think I heard him testify here that I told somebody on the job where he was working about he was already over the five limit and Perry got ahold of me.

Q What did you say to Perry and what did he say to you?

A I don't remember really what he said to me, but I know roughly he mentioned that the school wasn't doing anything for him and that he wasn't going back.

Q Is that when you sent the letter out?

A No. I let another couple of absences go by and then sent the letter.

Q Did there come a time when Mr. McQueen went back to the school?

A No, never been back to the school. Never came back to the school as a pupil.

Q Has he been back to the school?

A I have seen him back, talking to guys, and especially since this case has been on, when we first got

involved with this case a couple of years ago, he was sticking his nose around the school talking to people in the school.

Q But he has never been back as a student?

A Not as a pupil, no.

Q And then subsequently terminated again?

A No, never.

Q Are you familiar at all with Mr. McQueen's working ability?

A Well, I know from what I heard here and also what I hear from other business agents in the hall.

Q Have you ever received or are familiar with any correspondence received from employers regarding Mr. McQueen?

A Yes. I know -- I am sorry, I just thought of something. Mr. McQueen worked for DeGangi and I happened to send him on the job.

Q What was the job he was supposed to be performing?

A Running a Dynahoe.

Q What happened on the job?

A Well, I sent him out and I remember because I remember Perry very much. And right away the guy called me that the man was incompetent.

MR. DEVORKIN: I object.

Q Do you know who you spoke to?

A Yes, Mr. DeGangi himself.

Q Was Mr. McQueen terminated from this job?

A Yes, he was.

Q After how long?

A One day.

Q Mr. McQueen advises he's been referred out to well point jobs.

Have you ever so referred him?

A I don't think I have. If I have, I don't remember.

Q Do you consider the well point job a bad job to send men to?

A Not at all. I've worked on many well point jobs myself.

Q What is the degree of skill required of a man on a well point job?

A Well, he has to know basically how to use some wrenches; has to have a strong back and expect to work and -- well, that's about it. Has to want to work, because you have to produce all day.

Q Mr. Murphy, are you familiar with Mr. Keith Wilson?

A I am.

Q And can you tell us, please, when you first became familiar with him?

A I remember Keith Wilson when I first came down as a business agent and he was in the hall, getting on the out-of-work list.

Do you want me to go on?

Q Yes, whatever you know about him.

A Well, that's all I remember him, around the hall. Then I remember one day he came out to the school and spoke to me about getting into 14's school.

Q Was he a student in 15's school?

A No, he wasn't. Not at that time. He is now.

Q He wanted to get into 14's school?

A Yes.

Q What did you tell him?

A I said to him that when I get a chance, if he would stick around, I would introduce him to Jack Stanton and talk to Jack and see if he could do something.

Q Did you do that?

A I certainly did.

Q Did Mr. Wilson start attending 14's school?

A Yes, he did. Jack took some of his information and I don't know if he started immediately, but shortly after that he started with 14's school.

Q Mr. Wilson, you say, is presently attending Local 15's school?

A Right.

Q How long has he been there? Do you know?

A Well, he's got to be there a year. I don't

know the dates.

Q Have you had an opportunity to check on his performance?

A Yes.

Q And will you tell us, please, what his abilities are?

A Well, we tested him, it was in the beginning of this year, early spring, I would think, I don't know the date.

Then we tested him about three Saturdays ago. Both times he failed the test.

Q In your opinion, does he have the ability to be sent out, referred to a contractor to operate?

A Definitely not.

Q Do you have any estimate of when he might attain sufficient skill?

A Well, if he would try I would say he would be able to do it, but he don't seem to be really pushing to learn.

As a matter of fact, he only wants to stick around the cherrypicker. He don't seem to want to get on the other equipment. He asks to be put on the cherrypickers. We have one at the school. And, as a matter of fact, two weeks ago I was there and he was

on a backhoe. He was put on a backhoe to learn, and he asked to be put over to the cherrypicker.

Q Mr. Murphy, have you had occasion to test people who claim military experience and experience in other private schools?

A Yes. A couple of times a month someone will come to us, different people will come to us, and --

Q What's been your experience?

A I don't remember ever having one from the service that could handle any equipment to what we expect in the New York area.

Q How about these private schools?

A Very bad; can't run at all. Much worse than military people.

Q Have you had any white applicants who claim that experience?

A Yes.

Q And what do you do with them?

A We test them the same way. We give them the same test, and we haven't had any, neither white or black, that could run, coming from the military or private schools.

Q What do you do with these people?

A Well, we put them -- they have a choice to be put on our list, which is a waiting list to get into our school. Or I tell them, which I did only last week, "If you have a way of getting more experience yourself, come back any time and we will test you again.

Q And do you know of your own knowledge whether there are white men who are on the waiting list who have been tested and --

A Oh, yes, many.

Q And white men who have had that military experience?

A Yes, sir.

Q Who are now on the waiting list?

A Yes.

Q Mr. Murphy, have there been any occasions when men claiming they could operate have come to the school, been tested and then sent out to work?

A Oh, yes.

Q And has that happened to black men?

A Yes, both black and white.

Q And those people, I assume, you don't require to put in any time in the school?

A Not if they can run, no.

Q How frequently does that happen?

A Well, truthfully, very seldom, but it has happened. I can think of a couple of names right now.

Q Black or white?

A Black.

Q Well, who are those people?

A Aubrey Scott. He came down and was tested, worked out very good on the test, told to shape the hall.

That's what we do. When we test a guy, if he can pass the test we tell him to shape the hall, and Aubrey did and he come back to the well, went to work, and is an excellent union man and operator.

Q Is he a union member now?

A Yes, he is.

Q Do you recall about when he was tested?

A I think it was last year. I'll have to guess on the month.

I would say November or -- October, November of last year. I am only guessing now on the date.

Q You said you might be able to recall someone else, another black man?

A Yes, but I could never pronounce his last name. Royale, and his last name sounds like formaldehyde, but it's not.

Q Hfafalderhyde?

A Yes, that's it.

Q Something close to that?

A Yes. We call him Formaldehyde.

A Is he operating?

A Yes.

Q Are you familiar with Mr. Redus Shorter?

A Yes, I am.

Q And did Mr. Shorter's brother attend the school?

A Yes, he did. Richard Shorter.

Q Was he referred by Redus Shorter?

Q Yes. Redus came to me at the union meeting and asked me if his brother could get into the school and at the time he told me he was -- you know, he was on the job with him, trying to show him how to handle the equipment. So I said, "Sure."

It just happened to be -- well, this is before we had this long waiting list, it's a couple of years ago.

And at different times when we expanded the school we brought in bunches of people, and he came in and -- at one of these expansion times.

Q Could he operate at that time?

A Not at all. Very little, let's put it that way.

Q Did he complete the school?

A Yes, he did.

Q Is he now a member of the union?

A Yes. He was tested and passed it very well.

Q How long did it take him to complete? Do you know?

A Jeez, I don't know offhand. Not as long as it took others. I remember that he learned very quickly.

Q Are you familiar with William Joquin?

A Yes.

Q Did he attend the school?

A Yes, he did.

Q Do you recall when he was firsttested?

A I don't know the dates,no.

Q But I mean --

A I remember the occasion but I don't remember the dates.

Q Was Mr. Joquin able to operate?

A No, very little;hardly at all.

Q Do you know when he was going to school whether he was being referred out of the hall?

A Yes. All the business agents try to. Some of the fellows shape the halls that are in the school

and some of them don't.

Those that do, we try to get them on jobs where it don't demand too much experience.

Q Would that be a job like well point?

A Yes.

Q Are you familiar with a man named Broughton?

A Yes, William Broughton.

Q What has his experience been? Do you recall?

A Right now I am drawing a blank on him.

A All right.

A Oh, yes, now that I think about it, I know Bill. He is an excellent operator.

Q Is he a graduate of the school?

A Yes, he is.

Q How long was he in the school?

A I would say at the most a couple of months.

Q Did he come with some experience?

A I think he did. If I remember right, he was a wrecker. He was in the housewrecking local.

Q By the way, is he black?

A A black man, yes. And he came to the school. I don't remember as far as the waiting list with the man or -- but this was early in our school, I

remember that, and he learned very quickly on machines.

As a matter of fact, I think the only thing he needed experience in was a backhoe.

A And he got that experience in the school?

A Yes.

Q Do you know if during the time he was in the school he was also being referred out to work?

A Oh, yes, he was. But he could run, so he got a lot more action than the average student.

Q A competent operator?

A Excellent.

Q Do you know if members of Local 15 like their sons to attend that school?

A Oh, yes. Every meeting I get a dozen men asking me why their son isn't in it.

Q You mean members whose son's names are on the waiting list?

A On the waiting list, yes, sir.

Q Can you tell us how long some of the sons have been waiting?

A Three or four years, some of them; quite a few of them.

Q Mr. Murphy, aside from your work at the school you also work in the day rooms, do you not?

A Yes, sir.

Q And can you tell us, please, how the referral system works?

A Well, every Monday morning, using myself and Frank Guma, when there is a lot of men out of work, two of us take a pad and we walk to different sides of the hall and ghe fellows get up and get in line.

We write it out,because a lot of the guys you can't read their handwriting too well, what they can do, what local they are in, their name and phone number.

Q Have there been many men in the hall recently?

A Oh, yes.

Q About how many?

A In the past year there's been always groups of men in the hall.

Q Can you put a number on it?

A I would think a couple of hundred right now.

Q Explain, if you will, how the men are referred off that list?

A Well, each business agent gets a copy of the list. It's on carbons. We have carbons in between it. And if I was to get a call by a contractor, say, a backhoe operator, I would start at the top and see which is the best backhoe operator I could find.

Q Now, do some jobs call for greater degrees of skill and ability than others?

A Oh, yes, yes. Some contractors call for that too.

Q Can you give us an example of that?

A Well, there are some contractors that you can't place at all unless the guy is practically born on the machine. They scream they are not running a school and they expect a real competent operator.

Q What do they do with the men that they don't think are competent operators?

A Lay them off that night.

Q Have you ever heard the expression "Gull's audition again"?

A Yes, that's a term that we use because Gull is one of those kind that unless the man is an excellent, top-notch man on everything, he dont' want them.

We say that because it's common for us to send him a half a dozen men in a row until he finds one that he is pleased with.

Q Are there jobs, say, of a scraperon a particular job, a scraper, where the operator has to be more skilled than a scraper operator on some other job?

A Oh, yes. Depending on what they are doing

and the job site -- if it is wide open or tight quarters.

Q And what do the business agents have to do in these situations?

A Well, we all do the same thing. We try to select the best guy for the best job. If it's a job -- if we know the job, the job is where a man can get by that is not too experienced, we send that man out. If it is a tough job we have to find -- pick a guy for the tough job.

Q You do that based upon what?

A Well, at first you base it upon just what the man says, but being a fairly new business agent I got burned several times because each man thinks he is an excellent operator and you send him out and you get com plaints and you start to know their qualifications and who was the better of the operators.

Q Now, do employers'requests differ depending on the employer?

A Oh, yes. Some will ask for a man by name: If so-and-so is available, please send him to me. If he is not available, can you pull him off that job and send him to me.

And we do at times.

Q Do you ever do that?

A Sure.

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Q The employers inform of the degree of skill required of the particular job?

A They might. Especially if they got a bad operator one time or another. They will say there are high tension lines, there may be a traffic situation.

Q What does the traffic in the street mean to you?

A Most of these jobs in Manhattan or busy parts of Brooklyn, there are cars going practically underneath the boom of the crane and backhoes, they got to maintain traffic in that street, and they need a real sensible, careful operator for those jobs.

Q A man experienced in City operations?

A Yes. It is another part completely.

Q If you don't know a man's qualifications, what do you do?

A Well, I talk to him. I mean, I meet people for the first time in the local in 20 years. They might be out on a job and never come into the hall. If I don't see them on the job and they come in and claim to operate a dozer or a loader or a backhoe, I will talk to him and try to get out of his conversation who he worked for.

If he starts rattling off names of contractors I know that demand a topnotch operator, I know he is a

good man.

Q Sometimes you test these men?

A Very seldom do I send them to the school to test them. There are times a guy asks to be sent to the school.

Q How about this Hfafalderhyde, do you know him?

A Yes, he came -- somebody referred him to us and claimed he was an operator. Not knowing him, we automatically send him, strange people without books, to this school.

Q A stranger to you, you do test them?

A Yes, we do.

Q Mr. Murphy, have you ever heard at a union meeting any reference to the employment of members' relatives, sons?

A Almost every meeting, because people ask me about their sons and I tell them they have to be patient, their sons are on the list and we will get everyone on the list eventually.

It goes so slow, only one day a week operation, that it has taken us a long time to get to the people on the list.

Q About how many people do you graduate each year?

A Well, roughly about fifty total and about thirty non-booked and only roughly twenty are retrained, book members that are retrained.

We always try to have some book members in there, some of them got in the local before the school was in existence. Some of them would be on a particular job, they don't get on other equipment and they ask to be retrained.

Q You try to do that?

A Yes.

Q Is Mr. Herbert Screen in the school now?

A Yes, he has.

Q How long has he been in the school?

A Quite a while; more than a year, I know that.

Q Can you tell us what advancement he is making?

A Very poorly. He isn't learning too well at all.

MR. BRADY: May I have a moment, your Honor?

THE WITNESS: Could I talk to you while this is going on?

MR. DEVORKIN: I object, your Honor.

THE COURT: No.

THE WITNESS: I am sorry.

MR. BRADY: I have nothing further at this time.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Murphy, are you licensed to operate equipment in the City of New York?

A Yes.

Q What type of license do you have?

A A cherrypicker license.

Q Any other license?

A No, I don't.

Q Do you from time to time as business agent receive calls from contractors to supply them with oilers?

A Yes, sir.

Q How does one become an oiler?

A Most of the oilers, I would say all the oilers, they have been in the local quite a while. They select that part of it and try to stay away from equipment and stay on the oilers' side of the business.

Q Is that, in your opinion, good training to become, let us say, a member of 14?

A Excellent.

Q Have there been times when a person comes to you and says, "I want to be an operator"?

A On 14's equipment?

Q Yes.

A Yes, many times.

Q Have there been times when a person says, "I have no experience, but that is what I want to do"?

A Yes.

Q Now, what would you as a business agent of 15 do in that type of situation?

A You are saying the man has no experience of being an oiler?

Q But wants to ultimately be an operating engineer.

A Sure, if I can, and another job comes along, I will send him to it, try to help him out.

Q Does it require any previous training as such to be an oiler?

A Well, only if it is driving these big 250-ton truck cranes through the streets, I personally think it is a harder job than running the machine.

Q So long as the oiler doesn't have to operate by taking the crane from the barn to the yard, you could take someone who is relatively inexperienced?

A If he is familiar with greasing, like most of our equipment has grease fittings, so does the crane, so he can grease and maintain the dozer or loader or backhoe and he can handle the crane.

Q In other words, if he had some type of previous

experience of oiling or greasing of other types of equipment 15 uses, you could put him on a crane, is that correct?

A We could, yes.

Q Is there any type of practical training that 15 supplies in order to become an oiler?

A No.

Q Is there any particular branch of 15 that an oiler would start off in?

A No, not a particular branch, no. He would have to be in 15.

Q He would have to be in 15?

A 15, 15-A.

Q In other words, could you become an operating engineer if you went to 15-C, let us say?

A You could transfer into 15, yes. I don't get you.

Q Would the training that you receive as a 15-C man help you to become an operating engineer?

A I would think so, because I was in 15-C, I greased and repaired equipment that some time was a crane even in the shop.

Q Is there any other branch of Local 15 that would assist you in becoming an operating engineer in 14?

A Not really. I have known of people coming from 15-D as a surveyor to 14 once they got that license. They do that on their own.

Q Do you know of your own knowledge whether there are oilers in Local 15 that have their license?

A Many.

Q Do they automatically transfer into 14?

A No, they don't. They don't automatically.

Q Have you had any discussions as to why they don't?

A I have.

Q What do they say to you?

MR. DEVORKIN: I object.

THE COURT: Sustained.

Q Are they still members of Local 15?

A Yes.

Q Have they, to your knowledge, put in for a transfer card?

A Not that I know of.

MR. KENNEDY: I have no further questions, your Honor.

BY MR. DEVORKIN:

Q Mr. Murphy, do you presently have any relatives in Local 15?

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A Yes, I do.

Q Who are they?

A My father.

Q Johnny Murphy?

A Right. I have two cousins and a brother-in-law.

Q Besides these persons have you ever had any other relatives in either Local 14 or 15 no longer members?

A I have had an uncle -- excuse me, I have another one that is still in and one died.

Q What is the name of the one that died?

A Jim Murphy.

Q Was Walter Murphy a relative of yours?

A Not at all.

Q You were telling us about Mr. McQueen, I believe?

A Right.

Q Do you remember that?

A Yes.

Q Do you know if Mr. McQueen ever told you he couldn't go to school because he already operated equipment?

A I heard him say that in court, yes.

Q Did he ever tell you that?

A Well, he did say some time to me when I discussed with him that he was missing school. He said school couldn't do anything for him. He thought he was a qualified operator.

Q Did he have a job at that time?

A Yes, I think he did, because I spoke to somebody working with him to ask them to tell Perry to get ahold of me because he had a lot of absences.

Q He was actually an oiler at that time?

A Possibly.

Q Did he tell you he was oiling for six or seven months?

A I don't remember if he did.

Q Do you remember if Mr. McQueen was a member of Local 15 when you called him about missing school?

A He definitely wasn't.

Q He was not?

A No.

Q Do you know if Local 15 referred Mr. McQueen out for that oiling job?

A I don't know if they did or not. I know I didn't send him to it.

Q Would Local 15 send out an unqualified oiler to a job?

A Unqualified operator to an oiler's job?

Q Would you send out an unqualified oiler to a job?

A I wouldn't, no.

Q If a man were an oiler on a job he would be qualified?

MR. BRADY: Objection, your Honor.

THE COURT: It is argumentative.

A I know Perry wasn't an operator, if that is what you mean.

Q You were telling us some men select themselves to be oilers?

A Yes, right.

Q Is this a common occurrence?

A I would say so, yes.

Q Do you generally honor that selection?

A Yes.

Q Some men in Local 15, 15-A, who do nothing but oiling?

A Yes.

Q They are members in good standing of Local 15?

A Yes, they are.

Q You don't expel them for doing nothing but oiling?

A No, only from school.

Q If a member of Local 15 does nothing but oil, he is not expelled?

A Not at all.

Q You consider that acceptable, do you not?

A Certainly.

Q Are there any other pieces of equipment that men select to operate?

A Some people just select any one or two, possibly only one. A guy selects to stay on backhoe or a dozer.

Q Do you allow him to do that?

A Absolutely.

Q You generally honor that selection?

A Try to.

Q Have you always done that?

A Sure. It cuts down his earning power, but that is up to him.

Q You still do that today?

A Yes, sir.

Q Are there many men that do this?

A I would say there is a fair amount that do it, yes.

Q Do you ever remember telling Mr. McQueen he could not shape the Local 15 hall after he finished

with the school or was thrown out of the school?

A I don't.

Q Do you know whether any other business agent said that to him?

A I doubt any business agent would say it. We tried to separate the school from the operating of the local completely.

Q Have you ever sent Mr. McQueen out on a job after he was thrown out of school?

A I don't remember. I might have. After he was thrown out of school and before he was a member or after?

Q Before he was a member.

A No, I don't think so. I can't remember if I did.

Q As far as you know, there would be no particular reason not to refer him out after he was thrown out of school?

A No, definitely not.

Q When did your school formally begin?

A December of 1970.

Q 1970 or 1971?

A 1970.

Q So if Mr.McGuire, Sr. thought it was 1970, he would be in error?

A Probably mistaken on the date. I know the reason when it was is because I was newly a business agent in July of 1970 and he threw this school right on top of me, Tommy, Sr. did, starting in December.

Q Have you always had this five absence rule?

A Yes, sir.

Q Is it written on any of our applications or forms?

A It is in the last group that we have had printed, yes. We had an individual letter at one time. Then when we revised the application about a year ago we put it right on the back and instead of making it a separate piece of paper that a student signs.

Q In other words, until it was on the single sheet of paper it was on a separate document?

A Yes.

What kind of document was that?

A In a letter form.

Q Who was the letter addressed to?

A "Dear sir," or something like that. We didn't put the individual name in there, if that's what you mean.

Q Is Mr. McQueen considered by you now to be a competent operator?

A Operator?

Q Yes.

A No,he is not.

Q He is a member of your union, isn't he?

A That's right, he is.

Q Do you let in many people who are not qualified operators?

A No.

Q Was this some special favor you did for Mr. McQueen?

A I didn't do no special favor for Mr. McQueen, no.

Q Well, the union let him in, didn't they?

A Yes, they did.

Q But he is unqualified.

A As an operator he is, yes, sir.

Q You wouldn't send him out on an operator's job?

A Not unless I was made at the contractor.

Q Do you send unqualified men out to contractors you are mad at?

A No, I don't.

Q You say that the men at the school take a test?

A Yes, sir.

Q How many pieces of equipment do they have to pass a test on in order to get out of the school?

A Three.

Q Has it always been that way?

A Yes, it is.

Q Still that way today?

A Yes, sir.

Q Would Mr. Maguire,Sr. be mistaken if he testified that it was one or two today?

A I would think he is mistaken, yes. Mr. Maguire doesn't --

Q Just answer my questions, please, Mr.Murphy.

A All right.

Q After a man passes this test at the school is he admitted into the union?

A Yes, he is.

Q Immediately?

A Well, within the next executive board meeting of the local.

Q He doesn't have to be referred out to a job or obtain one first?

A No. We try to but he don't have to be.

Q In other words, he need not obtain any work after he passes the test in order to get into the union?

A He need not obtain?

Q He need not get a job as an operating engineer after he finishes the school.

A It isn't mandatory, no.

Q The test is the only requirement?

A That's right.

I believe you testified that Mr. Wilson was not a qualified operator?

A That's right, I did.

Q Is he qualified to work any pieces of machinery?

A I don't think so, no.

Q Do you know if he's been sent out to jobs as an operator by business agents?

A Not that I can remember.

Q If he were sent out to such jobs would those business agents be performing their function properly?

A They would be performing their function, they are sending him to a job.

Q As an operator?

A As an operator, right.

Q Would it be all right for them to send him to a job as an operator?

A Personally, my opinion of him is he can't handle a job because I see him every Saturday on equipment.

Q If an agent sent him out to a job as an operator, would that be proper or not in terms of the union's position.

MR. BRADY: Objection, your Honor.

THE COURT: I just don't see what you mean by proper.

Q Would that be consistent with the union's policy, Mr. Murphy?

MR. BRADY: I'll object to that, your Honor. He testified what his position was.

THE COURT: Well, if he knows what the union policy is, if it is the union's policy to send out unqualified people?

A It is not.

Q It is not?

A We try to send the best man for the job.

Q That wasn't the question. The question was whether you would, consistent with union policy, send a union qualified man out as an operator.

MR. BRADY: Your Honor, that was the question.

THE COURT: That's just what I asked.

Q The policy is no, is that correct?

A That's correct.

Q You also testified, I believe, that Mr. Wilson was at the school one time and asked to be put on a cherrypicker, is that correct?

A That's right. Two Saturdays ago.

Q And he had been working a backhoe?

A That's right.

Q Did he tell you that he wanted to be on the cherrypicker,is that correct?

A That's right. Two Saturdays ago.

Q And he had been working a backhoe?

A That's right.

Q Did he tell you that he wanted to be on the cherrypicker because he knew the other equipment?

A He did not.

Q You have other men that request to be put on cherrypickers?

A Yes.

Q Does that happen frequently?

A No, not frequently.

Q How many men do you have at the school who are learning on cherrypickers at the present time?

A Everyone at the school is learning on cherry-pickers and everything else that we have there.

Q Everyone operates a cherrypicker?

A They are all learning on it, sure.

Q Everyone operates every Saturday on a cherry-picker?

A No. How frequently does the average man

operate a cherrypicker?

A We try to rotate him amongst all the equipment and there is no set time on how often he will get on a piece of equipment because if there is less that show up a particular Saturday, he will get around quicker than other Saturdays or other times. So if a man attended your school regularly in a one-month period of time would he get to operate a cherrypicker?

A Probably not, no. If he started on something else, he probably wouldn't.

Q How about in a two-month period of time?

A Yes.

Q Would that also be true of a backhoe?

A Yes.

Q He might operate a backhoe once in two months?

A Possibly, unless he asked to be put on a backhoe more often.

Q You would honor the request?

A If we could, yes.

Q So then you honored Mr. Wilson's request to be put on a cherrypicker?

A That's right, we did.

Q That was not against school policy, was it?

A Not at all, no.

Q You were telling us about a man named Broughton, I believe.

A Bill Broughton.

Q Do you know how to spell his last name?

A No, I don't.

Q He is a competent operator?

A Excellent operator.

Q Do you know where he obtained his training?

A No, I don't.

Q But he came to you competent?

A On everything, I think, but a backhoe.

Q How many pieces of equipment could he operate when he came to you?

A Probably a dozer and a loader, if I can remember right.

Q How about a grader?

A We don't have a grader at the school.

Q Do you know whether he could operate a grader?

A No, I don't.

Q He might have been able to operate a grader?

A Possibly.

Q Is there any other machinery he might have

been able to operate besides the loader and the dozer?

A Possibly many others.

Q Perhaps a roller?

A Right. Could be.

Q And when he came to you was he referred to the school also?

A He was in the school, yes.

Q When he first came in contact with the union?

A Yes. If I remember right we tested him. He did very well except for the backhoe.

Q So he stayed at the school?

A I don't know if he come into the school immediately. He came into the school. I know that.

Q He waited to get into the school until there was an opening?

A I am not sure. I don't know what time he came in.

Q In any event he did wind up at the school learning how to operate a backhoe?

A That's right.

Q Did he get into the union before or after that?

A Before or after he came into the school?

Q Yes, sir.

A I would think after.

Q Do you know how long after?

A No, I don't.

Q More than a month?

A I could guess and say about a month, month and a half.

MR. BRADY: Objection. Your Honor, he said three times he doesn't know.

Q You don't know?

A I don't know, no, sir. Go through a lot of men out there.

Q Do you know where Mr. Broughton lives?

A Right now, no.

Q You wouldn't know his phone number, would you?

A No, sir.

Q Do you know Aubrey Scott, whom I believe you testified about?

A Yes, I do.

Q And is he a good operator?

A Excellent operator.

Q When he came to you was he an excellent operator?

A Yes, he was.

Q On which piece of machinery?

A Backhoe, loaders and dozers.

Q Was he referred to the school?

A I brought him out to the school to be tested.

Q Did he pass that test?

A Yes, he did.

Q What happened to him?

A I told him to go to the hall. He went to the hall and he was sent out on a job.

Q What kind of job was that?

A Jeez, I don't remember what his first job was. I don't remember.

Q Do you know what kind of machinery it was?

A No, I don't.

Q Do you have any idea where the site was?

A I'm not sure, but I think he was sent to DeMina. I sent him myself to DeMina.

Q Do you know how long he stayed on that job?

A I could guess.

Q I don't want you to guess.

A I don't know.

Q Do you know when it was that he was sent on that job?

A Shortly after he came out of the school, a day or two.

Q Which year was that?

A Late '73 or early '74. I think it was late '73.

Q Do you know how long he stayed on that job?

A I can guess.

Q I don't want you to guess. Was it a long time or a short time. Quite a long time.

MR. BRADY: It's the same question, your Honor.

Q A long time?

A Yes.

Q Do you know what he is doing presently?

A He was in the hall this morning, out of work.

Q Do you know when this long job ended?

A I don't know when, no.

Q Recently?

A Fairly recently.

Q Since then he's been coming to the hall.

A Right.

Q Has he been sent out from the hall since then?

A Yes.

Q How often?

A One I know. One time I know because I recommended him for the job.

Q Do you know Mr. Scott's address?

A It's in the union files. I don't know it by heart.

Q Can you supply it for us?

A Sure. The local company, I would think.

MR. DEVORKIN: May I have the court's indulgence for a moment, please?

(Pause.)

Q Is Mr. Scott a member of Local 15?

A Yes, he is.

Q Do you know when he got his book?

A I don't know the date, no.

Q Recently?

A Again I'm going to have to guess.

Q Was it in the last month?

A Oh, no. Longer than that.

Q The last two months?

A Probably longer than that.

Q The last three months.

A I don't know. Roughly three, four, five.

Q Three or four months?

A Right. At a guess.

Q Mr. Murphy, are there ever any jobs that men refuse because they don't like them?

A Yes.

Q Does that happen frequently or infrequently?

A Well, frequently when things are good; infrequently when things are bad.

Q What kind of jobs, if any, do men tend to refuse?

A Lots of men don't line tinnels, don't like wrecking jobs, if they are up high on a building, knocking the floors down.

Q Is that because that is dangerous work?

A Dangerous, right.

Q If you know, why do men not like tunnel jobs?

A Some people have the fear of being underground.

Q Is that one of the more frequent complaints with respect to the different jobs?

A I would think so, yes.

Q Do white men ever refuse jobs?

A Yes, they do.

Q Do black men ever refuse jobs?

A Yes, they do.

Q Does that frequently happen?

A Just as frequent as white men.

Q Do you know Arthur York?

A I certainly do.
Q Has he ever refused a job?
A Not that I can remember.
Q Do you know Keenan Pratt?
A Yes.
Q Has he ever refused a job?
A Not that I know of.
Q Do you know Perry McQueen?
A Yes.
Q Has he ever refused a job?
A Not that I know of.
Q Do you know Keith Wilson?
A Yes.
Q Did he ever refuse a job?
A Not that I know of.
Q Do you know John Hamlin?
A Yes.
Q Did he ever refuse a job?
A Yes.
Q How many times?
A Once that I know of.
Q Do you know why that was?
A Because he had to come to court.
Q Do you know Bill Joquin?

A I do.

Q Did he ever refuse a job?

A Not that I know of.

Q Give me the names of some blacks that you know who refused jobs as frequently as whites?

A Well, let me think. I know their faces but I am tough on the names. The names don't come to me.

Q Well, Mr. Murphy, you testified, I believe, there were some jobs that were particularly troublesome or for which contractors demanded particularly skilled operators?

A That's right.

Q And I believe you said you would try to send a sensible man out to the job?

A Sure.

Q What do you consider a sensible man?

A Well, a man that can run, and if he can see if it's dangerous he will take it easy so he don't hurt anyone.

Q Would you say that black operators are generally sensible?

A Yes.

Q They are no less sensible than whites?

A No, sir.

Q Are they any slower to pick up things than whites?

A Generally, no.

Q You said the contractor would tell you this, I believe when he called into the hall making his request?

A Yes, he would.

Q Does that generally happen, that he described the job to the business agent?

A I said, like I said before, if the man has been sent a man that displeased him, he might say, "Gee, this time send me a good man," and he might even tell on the phone the type of job he is doing.

Q Does he generally tell you how long the job is going to last?

A Sometimes he does; sometimes he doesn't.

Q If he is just replacing a man w b is out sick?

A Normally we know that.

Q You know that if he is being replaced?

A Right.

Q If he is sick or on vacation?

A Right.

Q Do men generally call in when they are going

to take a vacation to let the business agent know?

A Most of them do. Some don't. Sometimes just the contractor calls and says, "I have to replace so-and-so because it's always the understanding when the man comes back for whatever reason he was off it's his job.

Q And they tell you that so the union can cover the job?

A Right.

Q I believe you said that you attempted to find the best operator on the list for the job that was available?

A That's right.

Q Do you know how many members of Local 15A there are?

A No, not just in 15, 15A.

Q If I told you it were around 3000 would that be acceptable?

A I would think so, give or take a couple.

Q Do you know all of those men?

A All of them, no, I don't.

Q How many of them would you say you know?

A I would say over the years I guess you get to know several hundred. If not by name, you know them

to look at them.

Q By face?

A Yes.

Q And you may have had experience with some of them before?

A Some of them I might have worked with.

Q If a man is in the hall looking for that list and you don't know him, how do you determine whether or not he is or is not the best operator?

A I said before I talk to the man. I might say, "Who did you work for before?" or "Where were you laid off?"

Q And if he told you that he worked for somebody what would happen to him?

A Well, if he told me he worked for, for instance, Gull's name come up, I would know he is a top-notch man.

Q Are there any other contractors for whom you provide top-notch men?

A Sure.

Q That would be most of the contractors, wouldn't it?

A No, there is a couple, I would say a half a dozen contractors, who are hard to please, and if anybody

worked more than one day for them, they would be pretty good.

Q If they didn't work for the half a dozen contractors and did not know them, would you send them to be tested somewhere?

A No, not unless he had a book.

Q If he had the book would he get a job?

A Sure, he would get a job.

Q Would he get that job?

A Yes, he would get a job, if I, you know, had a request for a job and he was there and I spoke to him to find out what he can and can't do.

Q But if he didn't say he worked for one of these half dozen contractors, what would you do?

A I would talk to him about who he worked for and what he did; what can he do?

Q Then you would generally take his word for it and send him out?

A Sure.

Q If he were a nonbook man would that make any difference?

A Yes. I would refer him to the school.

Q Even though he told he worked --

A I think I would still send him to the school.

It never happened to me, but I would.

Q If he were a union man from another local and you didn't know him and he said he had worked for so-and-so and such-and-such and such-and-such equipment, what would you do?

A I would send him back to his local.

Q Wouldn't allow him to operate in the city?

A No, because if we need men from other locals we call the locals and they send them to us.

Q Does that happen frequently or infrequently?

A Oh, yes, when we are busy quite frequently.

Q You frequently use men from other locals?

A Yes.

Q When you obtain such men from the other local, could you test ther at the school?

A No.

Q Do you always know the man when he comes?

A I very seldon know the man?

Q And he usually goes right out to the job?

A I would call the other local and give them the address of the job and they would send him straight out to the job.

Q You testified, I believe, that you sometimes get requests from members to have their sons begin train-

ing at the school?

A Yes.

Q Does that occur frequently?

A It used to.

Q Well, before you had this school did you get requests from father's to have their sons obtain work in the trade here in New York?

A Well, only shortly before the school was in existence did I become a business agent so I don't know.

Q Since the school has been in existence have there been requests by fathers for their sons to work during any period of the year?

A At times.

Q Does the union try to Honor those requests?

A If we can.

THE COURT: By some period of the year you mean the summer vacation or something.

MR. DEVORKIN: Or any other time.

Q You testified that you asked a man when he came to the hall to sign up on the list which local he belonged to?

A Yes.

Q What happens if he doesn't belong to any local?

A Well, we have people there that don't belong

to locals.

Q What do you write down, if anything, on the list?

A Write a P next to his name for permit.

Q For permit man?

A Right.

Q Do you attach any priority on your list between union men and permit men?

A No.

Q What is the significance of the asking for the union number?

A Well, personally I use it that if a man was sent out on a job and I know he don't have a book, someone checks him and I can say I know the man don't have a book but I sent him out anyway.

Q Why would they check him on the job for the book?

A Well, the union men commonly go around checking for other books on the job.

Q Why do they do that?

A Possibly to find their own job or to make sure it's a union job.

Q If the man whom they check does not have a book what happens?

A They call the union.

Q What happens next?

A Then I'll say to him, "No, I sent him out there, he is okay."

Q And if you hadn't sent him out there what would you say?

A I would say that he got the job on his own.

Q Why do they bother to call in to you?

A You will have to ask them.

MR. BRADY: Objection, your Honor. It is inquiring of someone else's thought.

Q If you know.

A I don't really know. Just to make sure it's a union job, I guess.

Q Have you ever told them to call in to you?

A Sure I would. I've sent men out to jobs, booked men in on book men, and saying, "Let me know whose out there when you get there."

Q Why do you care who is out there?

A So I know how the job is running.

Q Why do you care if it's a union man or a non-union man on the job?

A It's my job to know that. I am the business

agent in Brooklyn. I want to know where there is people without and wi th books.

Q If a union contractor has both such men, that is union men and nonunion men, operating as engineers, why do you care?

A Well, because I want to go out and talk to him, find out if they are getting the proper wages and benefits.

Q That's the only reason?

A Yes, sir.

Q I believe you testified about men with military experience, is that correct?

A Yes.

Q Have you ever been in the service?

A Yes, I have.

Q Where were you stationed?

A Fort Belvoir, Virginia.

Q What kind of work did you do there?

A Operator in the Army Engineers.

Q Had you operated before you went there?

A Yes.

Q Where?

A New York City.

Q How long before?

A Four years before.

Q Were you a member of the union before you went?

A Yes, I was.

Q Have you ever been to the International Union's training school?

A No, I haven't.

Q Have you ever received any literature from the International about that training school?

A No. I know it's there. If I wanted it I could have got it.

Q Have you ever asked the International for it?

A No.

Q Have you ever written the International director of training for any information about it?

A No, I never needed any.

Q Do you know whether the union, that is Local 15, has ever written?

A I don't know.

Q Has the director of training or any other official from the International Union ever written to you or the union if you know about their training school?

A They wrote to us and tell us about seminars. I've gone to a couple here in the City of New York.

They have them in different places in the country.

When it's nearby I go to it.

T12

Q Do you know if men ever stayed at your training school on equipment they already know how to operate?

A Stay on equipment they already know how to operate?

Q Yes, sir.

A I would rather have them not, so I can make room for someone else.

Q That should not happen?

A It shouldn't, no.

Q Do you know Mr. Stanley Drayton?

A A 14 man?

Q Yes.

A Yes. I met him here, from time to time, in the hall.

Q You have met him in the hall?

A Yes.

Q Did you hear his testimony here?

A Yes.

Q Did you hear his testimony about his military experience?

A Yes, I did.

Q Did you hear his testimony about his admission to Local 14?

A I heard all of his testimony.

Q Is it your testimony that you disagree with Mr. Drayton that military service would be useful to becoming an operator in New York City?

MR. BRADY: Objection, he never testified to this at all. Ask him a question. He didn't so testify to that.

THE COURT: I will let him answer.

Q Did you hear Mr. Drayton's testimony?

A I did.

Q As to his military experience?

A Yes.

Q As to its usefulness for his becoming an engineer in New York City?

A Yes.

Q Do you agree or disagree with his testimony?

A It might have helped him in his case, but in general it doesn't as far as I am concerned.

Q Is there anything about Mr. Drayton that makes him different than other individuals?

A Yes.

Q What is that?

A He is a very eager man.

Q Is there anything about his skill that makes him different, as far as you know?

MR. BRADY: Objection, Mr. Murphy said he saw

him here in the hall and never saw him operate.

THE COURT: Ask him if he has ever seen him operate.

Q Have you ever seen him operate?

A No, I haven't.

Q Do you know Mr. Pratt?

A Yes.

Q Have you ever seen Mr. Pratt operate?

A Yes, I have.

Q Where?

A Both on the job and in the school.

Q When did you see him operate on the job?

A Before he got his book and after he got his book.

Q Before he got his book was he a poor operator or a good operator?

A On what kind of equipment?

Q On the pieces of equipment you saw him operate on.

A He was a fair grader operator.

Q What else did you see him operate?

A Just a grader, outside of school.

Q Was he worse, the same, or better as other grader operators?

A The same as.

Q You don't have any graders at the school, do

you?

A No, we don't.

Q You did hear Mr. Pratt's testimony?

A Yes, I did.

Q If a man came to you and told you that he had the experience Mr. Pratt testified to, I believe 20 years of military experience in the Army, what would you tell the man, if anything?

A And he was looking to get into the union?

Q Yes.

A I would take him out and test him at the school.

Q Immediately?

A Whenever the next day of schooling is, sure.

Q Is that the policy of the union, to do that?

A Yes, it is.

Q Take him out immediately?

A The next day of training.

Q You wouldn't turn him away, would you?

A Not at all.

Q He shouldn't be turned away, should he?

A I don't think so. We don't turn anybody away.

Q He shouldn't be told to come back, should he?

A Come back to be tested?

Q No, come back some other time.

A Well, I know people were told that before we had a school, where we could find out what they could do.

Q Have you seen Mr. Redus Shorter operate equipment?

A Yes.

Q Where?

A On jobs.

Q Before or after he got his book?

A I didn't know him before he got his book.

Q Do veterans have any or do they obtain any preference in Local 15?

A No.

Q Are they supposed to?

A They are not supposed to, no. No preference goes to anyone.

Q Were you here when Mr. Hanlon testified?

A No, I wasn't.

Q Have you seen him operate equipment?

A Yes, I have.

Q Before or after he got his book?

A After.

Q Did you ever see him before he got his book?

A No, except for school, no.

Q Never saw him operate a grader before he got his

book?

A No.

Q So you don't know whether he was a qualified grader operator before he got his book?

A I have no way of knowing.

Q You don't know whether hewas a qualified scraper operator before he got his book?

A Now that you say scraper, I remember sending him to a scraper job before he had his book.

Q Did you know if he was qualified when you sent him?

A He was when I sent him.

Q You sent him on a job running a scraper?

A He said he could run it and I sent him to it.

Q He could operate it?

A Yes, he could.

Q He could operate both the grader and the scraper before he got his book?

A He was only on the scraper.

Q Do you know how long he was on the grader job?

A Months, I think.

Q So that if a contractor keeps a man a couple of months, doesn't that mean he is a qualified operator?

A I would think so, yes.

Q Do you have any complaints about him as a scraper operator?

A Not at all.

Q He was on that job a rather long time, wasn't he?

A Yes, a couple of months, several months.

Q Seven months?

A I don't know.

Q Before he got his book?

A Yes, Starrett City.

Q Mr. Murphy, is it rare that Local 15 men from New York City have hoisting licenses?

A Not at all.

Q It is very common?

A Yes, it is.

Q What kind of City license do they normally have, if you know?

A I know they have both the cherrypicker and the hoisting machine operator's license.

Q A or B?

A Sometimes either or both.

Q Is it more commonly that they have a C license than the other two?

A No, I would say it is about equal.

Q Do you know whether or not Local 15 and 14 ever attempted to run a joint training school?

A Our schools are on the same piece of property but they are not joint.

Q Do you know whether Local 14 and 15 have ever had any joint meetings, for example, of executive boards relating to training?

A No, definitely not.

I have gone to meetings with Jack Stanton like seminars and stuff. They were held by the International.

Q But never been at any joint meetings of the local boards?

A No, not at all.

Q On any subjects besides training?

A Welfare and Pension is joint.

Q That is a meeting of the trustees of the Fund?

A Right.

Q Have you ever sent Local 14 men to the Local 14 school for training?

A No, I haven't, except for Keith.

Q Do you know whether any other business agents of Local 15 have done that?

A Not that I know of.

Q Have you ever referred any men, union or non-

union, to Local 14 for work in New York City?

A No.

Q Has Local 14 --

A Excuse me, I might have. One of the business agents might have asked me for a man and I said "How about So-and-So?"

Q What kind of man did he ask you for?

A I can remember one, a compressor. They didn't have a man and they needed a guy to send out right away. They would ask -- it happened to me -- we have a guy to cover this compressor.

Q Is that rare for that to happen?

A Fairly rare.

Q Has Local 14 ever referred any men to Local 15 for work?

A Well, there are times when we give one another clearances, especially on a cherrypicker. Our jurisdictions overlap and I would ask a 14 man for clearance on a 15 man doing his work and he would ask me for clearance on a 14 man doing 15's work.

Q Is it as informal as that?

A Yes.

Q Is there something called a clearance card?

A A clearance card to another local.

Q What does this mean?

A If a man wants a clearance from our local or out of our local into another local he would be issued a clearance card.

Q By the other local?

A By whichever local he is starting from.

Q The clearance card enables him to do what, if anything?

A Well, he presents it -- for instance, let me give you an example. Beacham Murphy cleared from 478, which is Connecticut, into Local 15. He presents his clearance card to us, he card has the seal of the local and states he is a member in good standing.

He presents it to our executive board and we accept it or turn itdown if we know anything bad about the man and he is signed up in our local.

Q He is a member of our local thereafter or just working there temporarily?

A Thereafter he is. Temporarily he wouldn't ask for a clearance card. It is usually a permanent move.

Q Have you ever issued a clearance card to a Local 15 man so that they could work as a 14 man?

A Yes.

Q Frequently?

A Well, every member that leaves 14 and goes into

15 must be issued a clearance card.

Q How about the other way around, from 15 to 14?

A They don't normally come back. I have never seen one come back from 14.

Q I think I misspoke when I started the question.

Do you ever issue clearance cards to your men so they can go into 14?

A Yes, quite often.

Q What happens, if you know, after you issue the clearance card?

A He has to present it probably to some board or something in 14, present it to the local anyway some place, and what he does, I don't know. Then he goes on their list.

Q Which list is that?

A The 14 list.

Q After you have issued those clearance cards have those men left Local 15?

A Some of them -- they don't leave until they are accepted. They pay dues in 15 however long it takes to wait. Some stay working out of our line and go right over, have already been working in 14.

Q Some of the 15 men have been working in 15 before they join?

A Sure.

Q What kind of work?

A Running cranes.

Q Is that frequently or infrequent?

A A couple a year, I would say, do it.

Q Just a couple a year?

A Yes.

Q After these clearance cards are issued by Local 15, have these men generally some time thereafter left Local 14 as members?

A Not until they are accepted by 14.

Q Once that happens they leave 15?

A Yes.

Q Does that happen for every clearance card you issue?

A I only know one that never completed the transaction. I can't think of his name but they normally leave and stay with 14.

Q Once he enters 14 must he give up his membership in 15?

A Yes, transfers over, the membership transfers over.

Q You require him to vacate his membership in 15?

A He requires it after he moves, transfers over.

Q But must he give up his membership in your union?

A Yes.

Q I believe you testified that in the average year at the school there have been 30 non-book men graduated and roughly 20 book men?

A On the average, roughly.

Q Is there any priority among the two categories?

A We always try to have more non-book men in the school than book men.

Q Would that be about their ratio, 30 to 20?

A No. What I meant, 30 or 20, this is over the course of a year. Book men sometimes only come out for a couple of weeks, sometimes a couple of months. We have a couple out there a long time.

Q Was there a union meeting on October 3rd?

A Yes, there was.

Q Where was it held?

A Manhattan Hotel, 44th Street and Eighth Avenue.

Q At night?

A Yes.

Q Which union delegates were present?

A All of them.

Q Was this case discussed?

A Yes, it was.

Q What did you say about this case?

A I told them that we were down, you might have seen us leaving early from the hall to get down here and that I thought that the government didn't have very much of a case against us from what I heard and I told them I was disappointed in some of the answers I heard from 15 people. That is about it.

Q Which 15people?

A People that testified.

Q Black or white?

A Only black people testified. I didn't say it.

Q Did any of the other business agents say anything the gist of which was anything different than that?

A Everyone said something about the case. Roughly, that is what everybody said.

Q Do you remember what your father said?

A No, not really. Roughly about the same thing.

Q Nobody was threatened at the meeting?

A Definitely not, no, sir.

Q Those were the strongest words used?

A No. I probably called them a curse word, I guess.

Q Who?

A The people who testified.

Q What did you say?

A Can I say it in the courtroom?

Q Sure.

A I think I called them sons-of-bitches.

Q Did you say anything about government lawyers or judges?

A Yes, I did.

Q What did you say?

A You refreshed my recollection.

Q What did you say?

A I said that it is being tried by government lawyers and there is a government judge sitting on the bench.

Q Did you draw any conclusion from that?

MR. BRADY: Objection, your Honor.

THE COURT: What does it prove?

MR. DEVORKIN: I have nothing further, your Honor.

REDIRECT EXAMINATION

BY MR.BRADY:

Q Mr. Murphy, you talked about a man that might specialize in a backhoe?

A Right.

Q What does that mean to him if he gets out of work and you have no backhoe jobs?

A He can't run anything else, he sits.

Q Would that be true of any man that specialized in a particular piece of equipment?

A Certainly.

Q The way the man makes that known to you is he refuses jobs, is that so?

A Or he might only put one thing down on the out-of-work list.

Q You talked about Mr. McQueen as being terminated from the school?

A Yes.

Q Is it a fact that Mr. McQueen became a member after he was terminated?

A That is right.

MR. DEVORKIN: I object, he is leading his own witness. He didn't lead on direct examination and that is the only reason I object at this stage.

MR. BRADY: I withdraw the question.

Q Do you know, Mr. Murphy, if Mr. McQueen became a member of the union after he was terminated?

A Yes, he did.

Q Mr. McGuire, Sr., does he go out to this school?

A Maybe once or twice a year.

Q Does he have anything to do with the testing?

A Not at all.

Q The approximate 3000 members in 14 and 15, which is a figure at least that was testified to, how manyof them used hiring hall, do you have any knowledge of that?

A Percentagewise?

Q Yes.

A 20 per cent.

Q Would the union refer the son of a member to a job if he wasn't qualified or experienced?

A Not at all.

Q Even if it was the summertime?

A Well, if the man was -- there was no one out of work, I personally might send the guy on awell point job that the other guys could carry him.

Q You say you went through Army training?

A Yes, sir.

Q In your experience, Mr. Murphy, your experience at the trade and in the Army school, how would you say the Army training qualifies a man to operate in New York City?

A Well, from what I've seen of the Army training, both when I was in it and since I am out of it and here in New York, a man can't compare with a man that -- what they expect from a man here in the City of New York, what the contractors expect.

Q Generally speaking, would an Army trainee be capable of performing in the city?

A Definitely not.

MR. BRADY: No further questions.

RECROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Murphy, you were asked about clearance cards.

Those are the equivalent of transfer cards, are they not, where a man goes from one union to another?

A Right, that's what I was talking about.

Q You also testified about overlapping jurisdictions between the two locals?

A Right.

Q 14 and 15?

A Yes.

Q Do you both operate compressors?

A No. Only on cherrypickers.

Q Only on cherrypickers?

A And rollers we overlap.

Q In that respect there is an overlap of jurisdictions, is there not?

A In those two things, yes.

Q If you wanted to put a 15 man on a 14 job that would be called clearance, would it not?

A Yes, I would ask the business agent for clearance.

Q And that's simply to notify him what you are doing, isn't that right?

A And that he is there.

Q And the same would be true if a 14 business agent wanted to do the same thing with one of his men?

A That's right.

Q And that's strictly oral?

A Strictly like saying it here.

Q Whereas the clearance card is a formality,

is that right?

A Yes, an issued card.

MR. KENNEDY: That's all I have.

MR. BRADY: I have no further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will adjourn until 10:30 tomorrow.

(Adjourned to October 8, 1974, at 10:30 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
John Stanton	3000	3011		
Stephen J. Porter	3025	3037		
Arthur Smith	3045	3054		
Charles J. Lebron	3061	3069		
William Vance	3075	3086	3092	3094
John Williams	3096	3102		
Daniel J. Murphy	3109	3134		

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

vs.

LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.

New York, October 8, 1974,

10:30 a.m.

Trial resumed.

- -

MR. BRADY: Your Honor, before we start, I would like to call the court's attention to a request that I made on Friday regarding a 2 o'clock appointment I have in the National Labor Relations Board.

THE COURT: Oh, yes, I remember that.

How long are you going to be there?

MR. BRADY: I think about an hour, sir.

THE COURT: Well, let's see how well we can do this morning.

Yes. I have to attend a conference on other cases at 4:30, that's the only thing I am getting at, so I can't sit late this evening, but we will work out what we can.

Yes, I remember that.

MR. BRADY: Before we start, I do have a list which was made up in reference to what we spoke about yesterday of the graduates of the school, an indication after each name as to whether white or minority.

Mr. Devorkin has the records and he can check this over, if you would like to look at it before I offer it.

MR. DEVORKIN: I would like to look at it now and for a number of days because Mr. Brady's records that he supplied to me are not very complete and I am not sure it is possible from the records to verify this list.

THE COURT: All right.

MR. BRADY: Well, whatever records we had are the records we gave you.

MR. DEVORKIN: I am just saying if I can't verify from the records, I am not sure Mr. Brady can either.

MR. BRADY: If not, then I will have Mr. Murphy testify to it.

Shall I offer it now.

THE COURT: It is received subject to check by the government.

(Defendant Local 15 Exhibit G was received in evidence.)

xx

MR. DEVORKIN: Could I ask a question for the record so I am clear on this. By the absence of any graduates from 1970 and 1971 on this list, does that mean there were no graduates in 1970 and '71?

MR. BRADY: Yes, that's correct.

THE COURT: Well, that's one thing there is no dispute about.

MR. BRADY: I call Mr. Harold James.

THE COURT: I will take this one witness and then I have to interrupt for another matter.

H A R O L D A. J A M E S, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. James, for the record, what is your race?

A Negro.

Q And are you a member of Local 15, the International Union of Operating Engineers?

A Yes, I am.

Q What particular local are you a member of?

A Local 15.

Q Can you tell us, please, Mr. James, in what year did you obtain membership in the local?

A 1948.

Q In what local did you then obtain membership?

A 15A or B. I am not certain.

Q At that time, Mr. James, how old were you?

A Twenty-three, 24.

Q Did you have any experience at the work within the jurisdiction of the local union?

A Some.

Q What was your experience?

A Some operating in the service, cranes, bull-dozers, french diggers, equipment of that nature.

Q Did you have any relatives in the union?

A Yes, sir.

Q Who were the relatives?

A My uncle.

Q What was his name?

A Fred Fawkes.

Q How long had been a member of the union?

A Since the inception of the union. He was a charter member.

Q Had you ever worked with Mr. Fawkes prior to your admission into the union?

A Yes.

Q What kind of work did you do with him?

A With him I worked on a steam derrick and on a P & H crane.

Q At that time were you learning some of the equipment?

A Yes.

Q How long did you serve in the army?

A Six years.

Q And what experience did you have in the Army insofar as the work experience for Local 15 is concerned?

A Operating on a P & H crane and a Lorraine crane, driving of heavy automotive equipment, diesel engine maintenance and repair, bulldozer operator and end loader, trench diggers, some high air equipment, compressors and so forth.

Q Did you do that work for most of the six years that you were in?

A Yes, sir.

Q Tell the court, please, what was your first contact with Local 15? Do you remember when it was and where it was?

A It was in -- are you referring to work?

Q No. I mean the first time you went down to the local union.

A That was on the 16th, I believe, of July,

1948, My uncle took me to a special meeting, business meeting, and he vouched for me and I was accepted in the union and joined at that time.

Q Do you recall, at that meeting, who was there so far as the union was concerned?

A Mr. Maguire, Sr., a number of business agents, Harry Staid, who turned out to be my union delegate. I don't know the names of most of the people over there.

Q At that meeting did they question you regarding your experience?

A Yes, sir.

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Q How soon after that meeting did you obtain your union membership?

A I got it that night.

Q Thereafter did you go to the union for referrals to work?

A Yes, sir.

Q Tell us what your experience was.

A Two days later I received a job from the union day room. I want to work at the Van Wyck Expressway construction job.

Q Do you recall what type of work you were doing?

A Crane oiler, apprentice engineer and bull-dozer operator.

Q Thereafter did you return to the union for further work?

A Yes, sir.

Q How long did that first job last?

A Almost a year.

Q What kind of jobs were you referred to there-after?

A Some operating and some oiling on various types of equipment.

Q Can you tell us, please, in 1948 how you went about getting a referral?

A You would go down to the union hall, the jobs were posted on the bulletin board,and if you find yourself qualified for a job you would pick the job and ask for it or take the slip off the wall. Sometimes they put papers out with a job referral and you just take the slip over andshow it to the delegate and tell him you were taking it.

Q Was this done on a first-come, first-served basis?

A Yes. There would usually be a lot of us there and if you saw what you wanted you took it.

Q At that time, Mr. James, were there other black members of Local 15?

A Yes, sir.

Q What type of work were they doing, do you know?

A All types.

Q Have you ever been referred out to a well point job?

A No, sir.

Q How long a period of time did you continue to be referred out to work?

A Approximately three years.

Q During that period of time from your observations were blacks referred on an equal basis with whites?

A Yes, sir.

Q During that period of time did you experience any discrimination because of your race?

A No, sir.

Q What happened after the passing of three years, do you recall?

A I went on withdrawal and joined the Police Department.

Q Any particular reason why you left the business and went to the Police Department?

A Yes, a family problem. My daughter -- I don't know how to tell it.

I worked steadily for the year, I made a very good salary but I had to take another job to pay for my food and lodging. My daughter became asthmatic after her first birthday and it cost me $20,000 to keep her alive that year.

Q Did the Police Department offer something to you that you couldn't get in the union?

A Yes. Most of the money I spent was for blood and oxygen. I had taken the Police examination more or less as a lark and I had my name deferred for four years.

The last of the list was coming up and one of

the lieutenants called me and asked me about the family problem. They learned through their investigation, and he explained that if I had been in the Police Department I would not have to pay any of the oxygen or blood, I would have gotten an unlimited supply,and on the spur of the moment I just signed and went in.

Q You left the industry then?

A That is right.

Q How long did you stay in the Police Department?

A 21 years and 9 months.

Q You retired recently from the Police Department?

A Yes.

Q How long ago was that?

A Two years.

Q Upon retirement, Mr.James, what did you do then?

A Shortly before I retired, before my termination was up, I went to the union and inquired about reinstating, and Mr. McGuire I was very surprised to find remembered me, and I reapplied and I would have to pay a small fee for reinstatement and I would be back in the union.

Q Did you reinstate yourself?

A Yes, sir.

Q When did that happen?

A That was in May, I believe, of 1972.

Q Since May of 1972 have you sought to obtain work?

A No, sir.

Q Any reason for that?

A Yes, sir.

Q What is the reason?

A I am taking a month's vacation from the Police Department plus.

Q Do you intend to come back to work?

A Yes.

Q Anyone mention that to you from the union?

A I have been approached by it several times, why not come back to work,we got work for you, when do you intend to come back to work; questions like that on every hand. I have always been approached with this.

Q During the time when you were working out of the union, three years, do you recall if you had any grievances with contractors that you called on the union to take care of?

A Yes, I had one.

Q What was that?

A I was working as operator of a crane under the apprentice program with another engineer on the job and one of the gang foremen wanted to do something I didn't

consider safe and we had a bit of an altercation and he called me something I didn't like.

Being a little hotheaded I didn't climb down from the crane, I jumped from the crane and I put my feet on his chest and knocked him to the ground and very frankly I tried to beat his brains out.

I was taken to the station house and we had a little bit of a hassle. I called the union and I was allowed to make my phone call to the lawyer and then called the delegate and Harry Staid was there in practically no time and went to bat for me and I was let off.

Q You said you were operating a crane and you mentioned the word "apprentice." You were not a formal apprentice, were you?

A I believe I was.

Q What was your title then?

A Apprentice engineer, oiler and fireman.

Q What were you doing, oiling on the crane?

A No, I was operating at that particular time.

Q Was there another oiler on the crane at that time?

A Yes, there was.

Q You were operating?

A Yes.

Q Was it your intention to get your license?

A Yes.

Q Who assigned you to the job of operating the crane?

A Harry Staid.

Q That is Local --

A 15-A.

Q At that time you had experience operating cranes?

A Yes, sir.

Q But you never did apply for the City license, I take it?

A No, sir.

MR. BRADY: I have no further questions.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. James, is your uncle a member of Local 14?

A Yes, sir.

Q How long was he a member of Local 14?

A From the inception of the union.

Q Did he have other relatives of his that were in Local 14?

A No, sir.

Q When you first started to work in the industry

did you act as an oiler for your uncle?

A Yes, sir.

Q How long did you serve as his oiler?

A I served as oiler or fireman for him about three months.

Q Did he teach you how to operate a crane?

A Yes, sir.

Q Gave you time on the seat, did he?

A Yes, sir.

Q Did you continue to be an oiler after that?

A Yes, sir.

Q Did you always work with a license to the operator?

A Yes, sir.

Q How long a period of time in total did you act as an oiler?

A Separate as to the total time itself?

Q Yes.

A Of the three years, probably half of it.

Q Did you ever have any desire to transfer to Local 14?

A Yes, sir.

Q Why didn't you?

A I went in the Police Department.

Q Had you ever attempted to take the New York City license examination?

A No, sir.

MR. KENNEDY: I have no further questions, your Honor.

BY MR. GLASSMAN:

Q Mr. James, will you please keep your voice up a little bit?

A Sure.

Q How old are you?

A 52.

Q Could you describe for us again the types of equipment that you operated in the Service?

A P & H crane, Lorraine crane, ditch-digger, bulldozer, end loader, compressor, quite a number -- tanks and heavy trucks and so forth.

Q Did you find that experience useful when you came into the building line?

A Somewhat.

Q Were you a member of any formal training school or engineering corps in the Service?

A Auto mechanic and diesel mechanic.

Q Were you a member of the Army Engineers?

A No, sir.

Q I believe you said your uncle was a member of the union when you first joined, is that correct?

A Yes, sir.

Q Was he a member of Local 14 at that time?

A Yes, sir.

Q Did he ask you to go to Local 15 at that time?

A No, sir, I just went into Local 15.

Q Did you need any sponsors at the time to get into Local 15?

A I don't know. I assume so. My uncle sponsored me.

Q Do you know if there were others at the time who had relatives in the union?

A Yes, sir.

Q Isn't it a fact that at that time the union was considered basically a family affair?

A I don't know from experience other than my own. I assume it was but I don't know. There were men in there who were not related to anyone there.

Q Did you know a lot of men in the union at that time?

A Yes, sir.

Q Were a lot of them related to each other?

A Yes, sir.

Q What actually was the first job you worked on?

A The Van Wyck Expressway construction job.

Q What kind of work were you doing?

A Bulldozing and crane operating and oiling.

Q About how much time in the next few years did you spend oiling the crane?

A Well, for the three years I worked I spent

approximately half of it as an oiler and the other half as an apprentice engineer.

Q About how much time did you spend operating the crane?

A I would say about one-third, one-fourth of the total period of time.

Q You didn't have a city license at that time?

A No, sir.

Q Do you know if there were many other people who were operating cranes as apprentice engineers?

A There was.

Q Do you know if they had licenses?

A I assume that most of them did not.

Q Most of them did not?

A I would assume that most of them did not.

Q You said you were an apprentice engineer? In what local were you an apprentice engineer?

A Local 15A or B, I am not sure exactly which right now. I would have to refer to my book.

Q Could you describe for us the duties and training of an apprentice engineer?

A Well, there was no formal training. We were assigned, or you took up with an engineer that you got along with, and he would coach you and teach you to

the extent of his knowledge, and when you felt that you were qualified to take the exam, then you would take the exam and go on your own.

Q I believe you testified that there was an apprentice program.

Can you describe for us how the program actually worked?

A That was it.

Q Were there many people in that program?

A Yes, sir.

Q Do you recall about how many there were?

A No idea, sir.

Q When you came in did you have any expectation of becoming a Local 14 member?

A Yes, sir.

Q Why did you have such an expectation?

A I had wanted to become a licensed operator and I guess following behind my uncle, and the apprenticeship program would have led ultimately to that.

Q Was that your understanding of the apprentice program at that time?

A Yes, sir.

Q How many hears were you in the Police Departmnt?

A Twenty-one years, nine months.

Q What did you do during your years in the Police Department?

A I worked as an undercover agent in narcotics, I spent 19-1/2 years there. I did some technical work as far as radio, electronics and building of equipment for interception of intelligence. I worked as an investigating officer and finally as forensic in the 103.

Q During the 21 years in the Police Department did you ever go back to the union hall?

A Yes, sir.

Q For what purpose?

A Keeping in touch with some of the fellows I knew and see what some of the equipment was, get the brochures from the manufacturers, to see how the work schedule was going and what experience the guys could tell me about the new equipment.

Q Did you ever operate any equipment during those 21 years?

A Just for the first year.

Q In other words, between the period 1952 and 1972 you never operated any equipment, is that correct?

A No, sir.

Q You never operated any equipment?

A I did not.

Q Since you retired from the Police Department did you do any work at all, even any short jobs for the union?

A One week.

Q When did you do that?

A July, 1972.

Q What kind of work was that?

A End loader, bulldozer for Edenwald Construction.

Q How did you get that job?

A I went down and I know a friend of mine over there and I asked if they had any work for me and he said, yes, come and try your hand for a while.

Q Is this friend a union member?

A No, he is at the company.

Q And since then you haven't worked at all?

A No, sir.

Q I believe you stated that you were told recently by the union that they have work for you, is that correct?

A Yes.

Q If you want to work?

A If I want, I can get work. There is a bit of controversy as to why I've not bothered to come into work and look for work, and I give the same reason continually, that I am taking a vacation.

Q Who told you that they have work for you now?

A The business managers, some of the delegates.

Q Do you know their names?

A No, I don't. Lot of new faces.

Q When they told you they had work for you did they ask you whether you had operated any equipment in the last 20 years?

A No.

Q Since you were reinstated, have you inquired about the union's training school at all?

A Yes, sir.

Q Have you applied for the school?

A No, sir.

Q Who have you spoken to and what have you been told about the school?

A I don't remember the young man's name offhand, but I inquired within the last two weeks and I've been told that as more or less a senior member of the union I could go to the school whenever I wish. All I do is make out the application and take it down on a Saturday and I would be in school as of that time.

Q And could you go to work while you were in the

school?

A Yes, sir, if I felt qualified.

Q Were you told that by a union officer?

A The same gentleman I spoke to when I asked for the application.

Q In other words, you were told that you could go to work when you personally were satisfied that you were able to work, is that correct?

A That's right.

Q When do you expect to go back?

A Probably around the end of the winter. I have a little traveling I want to do.

Q Whenever you have had enough of your vacation?

A Just about, yes.

MR. GLASSMAN: I have no further questions, your Honor.

MR. BRADY: Nothing further.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will take a short recess.

(Recess.)

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MR. BRADY: Mr. Palomino.

V I V I A N P A L O M I N O, called as a witness on behalf of defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Palomino, what is your race?

A Black.

Q Are you a member of a union?

A Yes.

Q What union?

A Local 15.

Q Operating Engineers?

A Yes, sir.

Q Can you tell us, please, how long have you been a member of the union?

A 1969, in April.

Q At that time did you have experience in the line?

A Yes.

Q What was your experience?

A Oper ting different equipment.

Q Where did you obtain that experience?

A In Jamaica, West Indies.

Q How many years in Jamaica had you been operating?

A From after I finished school in 1942, I go with my father and he learned me and I come up and I apply to the union.

Q When did you come to the United States?

A 1968.

Q From 1942 to 1968 you worked?

A Yes,sir.

Q In 1968 you worked on this equipment?

A Yes, sir.

Q Can you name for us, please, some of the equipment that you worked on in the West Indies?

A Yes. Caterpillar, dozers of all kinds, loaders, scrapers, mixer, a little on the grader.

Q How old were you when you started getting your experience?

A I was born in 1925 -- about 17 or 18 years old.

Q Was that the only business that you worked at in the West Indies?

A That is what my father do and I go with him.

Q Your father had done it before you?

A Yes.

Q When you came to America that was in 1968?

A Yes, sir.

rp3 Palomino-direct

Q What did you do when you first arrived?

A I worked at the rice pudding factory and a guard job.

Q What was your first contact with Local 15?

A I keep inquiring how to get a job there and somebody find the address and tell me and I went there in 1969.

Q Who did you speak to when you went down there?

A Mr. Willie Keenan, he is dead.

Q He was a business agent of Local 15?

A Yes, sir.

Q Did you tell Mr. Keenan your experience?

A Yes, he asked me and write it, everything.

Q He helped you?

A Yes.

Q Did Mr. Keenan send you out to a job?

A Yes, sir.

Q Do you recall what that job was?

A Yes. As a scraper, but I couldn't get to the job. I didn't have a car to go where the job was and there was no busses run there, so I couldn't go.

Q Did you leave the hall to go or what happened?

A No. I didn't have a car, they tell me you have to drive. So I said I haven't got a car, so he

say there are no busses, don't go to that point.

Q Where was the job?

A Staten Island.

Q Were you in New York?

A New York, yes.

Q So what happened then?

A I went home, on a Friday,and I come back Monday morning and I was sent out.

Q Were you sent out to another job?

A Yes, Monday morning, in New York.

Q Do you recall what the job was?

A Loader.

Q In New York County?

A Yes.

Q Do you recall how long that job lasted?

A I left that job 1970, in June.

Q The job lasted about a year?

A More than a year, about a year and three months; from April to June, about 15 or 16 months.

Q During that time were you admitted into the union?

A What?

Q Did you get your union book?

A Yes, I got my book in 1969, November.

Q Did you have any trouble?

A A little before November.

Q Did you have any trouble getting your book?

A No.

Q Did you have to pay anyone to get your book?

A No.

Q After that job was completed what did you do?

A Go back to the hall.

Q Did you get another job?

A I went out the same day.

Q The same day you went back?

A Yes.

Q Do you recall that job that you went to then?

A The union sent me to that job.

Q What was the job?

A Operating Conduit & Foundation.

Q Do you recall how long that job lasted?

A I went on this job in June, 1970, and I finished April, 1971.

Q Did you go back to the hall then?

A Yes, I went back to the hall.

Q Were you sent to another job?

A Yes, the same day, to another job.

Q Do you recall what that job was?

A Operating.

Q Do you recall what type of equipment you were operating?

A A dozer, D-8.

Q How long did that job last?

A That job lasted from 1971, April, until August, 1972.

Q August of 1972?

A Yes.

Q Were you referred out again to other jobs?

A Yes. I go to the hall and they send me to another job in August, 1972.

Q Do you recall what that job was?

A Perini North River Associates.

Q That is where you work today?

A Yes.

Q From 1972 to this date?

A Until now.

Q What are you doing at Perini?

A Oiling.

Q Oiling?

A Yes.

Q Approximately how much money did you make last year?

A $28,000.

Q During the time that you have been a member, Palomino, have you experienced any discrimination from the union because of your color?

A No, sir.

Q As far as your observation and experience, are black men referred out to jobs?

A Yes, sir.

Q On the same basis as whites?

A Yes, sir.

Q Do you have any complaints about the referral system at all?

A Like what?

Q Any complaint about not being referred to work?

A No. We got job, no complaints. I haven't heard nobody say nothing.

Q Do you attend union meetings, Mr. Palomino?

A Yes, but I didn't go to the last one.

Q At the union meetings, do blacks get an opportunity to speak out just as whites do?

A Yes. If you have anything, speak it, just as anybody else.

Q On the job that you are on now, that Perini North River job --

A Yes.

Q -- are there other blacks from Local 15 employed there?

A Yes.

Q Can you tell us what they are doing on the job?

A Operating, and some do maintenance work.

Q Have you seen any New York Plan trainees on the job?

A Do I see trains?

Q Trainees.

A Yes.

Q New York Plan trainees?

A On the job?

Q Yes.

A Yes.

Q Do you know what they are doing on the job?

A Go with the maintenance man and mechanic and so on.

Q At the time you went to the union were there other blacks in the union?

A Yes.

Q In 1969?

A Yes.

Q On the jobs you work at have you seen other

members of Local 15 who were black on those jobs?

A Yes, sir.

Q What kind of work have you seen these black members do?

A Running loaders.

Q Mr. Palomino, have you ever been sent out on a well point job?

A The first company that I worked with in 1969, one time, a couple of days.

Q A couple of days?

A But the first company I was sent to work with, yes.

Q Have you ever seen well point gangs on other jobs?

A Yes, sir.

Q Have you seen white men working on well point?

A Yes.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q You came to the United States in 1968?

A '68, yes, sir.

Q Before that you had had approximately 26 years' experience as an operator?

A Yes.

Q Was that a good and useful experience, to learn how to operate in Jamaica?

A Yes, sir.

Q What was the date, as best you remember it, that you first went to the union hall to find a job?

A Over here?

Q Yes, sir.

A 1969, in April, but I don't remember the date.

Q But it was in April?

A Yes.

Q And you got a job at that time?

A Yes. About two days after I sent out, but I didn't have a car so I couldn't get the job. I didn't have a car to reach to Staten Island. That was a Friday. So I went home.

Q The first job you got was a two-day job in

Staten Island?

A No, sir.

Q Sorry?

A About two days after I go to the hall, about two days after they sent me out, but I didn't have a car. I can't take the job. No bus didn't run to that job.

Q Was that job in Staten Island?

A Yes.

Q Did you go back to the hall after that?

A I go back Monday.

Q Then you got a job?

A On Monday, yes.

Q What kind of job was that?

A A loader.

Q What contractor?

A Cross Bay Excavating.

Q You stayed about a year there?

A No. More than a year. About a year and three or four months.

Q It was in November of 1969 that you finally got your union book?

A Yes. I don't want to commit myself but it was about that.

Q November or December?

A Yes, but it was in A69.

Q When that job was over you went back to the hall?

A To the hall, yes, sir.

Q And you got the conduit --

A And foundation.

Q When that job was over you went back to the --

A Union hall.

Q And got the Perini job?

A No.

Q You got the one-day job on the dozer?

A No, not the one day. After the conduit and foundation job was over I went back to the hall. I go over to Queens Structure.

Q How long did that job last?

A I went on the Queens Structure job from 1970, '71, until '72, August.

Q And then you got the Perini job?

A Perini job, yes.

Q So is it fair to say that you have been in the hall looking for work about four times?

A No. I said I went there, the first time I went there, telling what I can do and about two days after I sent out but I didn't have a transport.

Q That was the first time, right.

A The first time.

Q Then there was the time that you got the conduit job and that was the second time?

A The second job, yes.

Q Then there was the time with this truck company?

A Crosby, you are talking?

Q No. The job you had before the one you have now.

A Queens Structure.

Q And that was the third time?

A The third job.

Q And the fourth time was Perini?

A Perini.

THE COURT: Did you get each of those jobs from the hall?

A Yes, sir.

Q You say that you worked with other black men on some of the jogs?

A Yes.

Q And they are all pretty happy?

A Yes. We all get along good.

Q Do they all make the same amount of money you do?

A Yes.

Q They all make $28,000 a year?

A Well, sir, it's all --

Q Just yes or no, if you know.

A I don't know, sir. But they work steady as we do.

Q Do you know Perry McQueen?

A Perry McQueen?

Q Yes.

You see the fellow sitting in the courtroom?

A Yes.

Q Do you know him?

A Yes.

Q He works or did work with you on the Perini job?

A Yes. I saw him up there running a loader, right?

A SPECTATOR: No.

THE WITNESS: What you was doing?

I get him mixed up then.

Q Mr. Palomino, you did see him on that job?

A I don't want to get myself -- I believe I seen him on that job.

Q He was on that job about a year or so, wasn't

he?

A Yes, I saw him.

Don't you go down to the Perini job?

THE SPECTATOR: I was there, yes.

Q He was there for about a year or so?

A I don't know how long he was there, sir.

Q Would it surprise you if I told you that in 1973 you made almost twice as much as Mr. McQueen?

MR. BRADY: Objection, your Honor. He said he didn't know how much.

THE COURT: Yes, I imagine he is surprised. Let's go ahead.

MR. DEVORKIN: I am trying to go into the man's crecibility, your Honor. That's all.

MR. BRADY: You don't think he made that much?

THE COURT: Don't you believe he made that much?

MR. DEVORKIN: I have no doubt he made that much.

THE COURT: Why are you attacking his credibility?

MR. DEVORKIN: Because the man is testifying about what he believes the union does or doesn't do.

MR. BRADY: It's your questions.

THE COURT: He is saying he made $28,000.

BY MR. DEVORKIN:

Q Do you know any other black men that made that much money, Mr. Palomino?

A Over again, please.

Q Do you know any other black men that made that much money?

A Well, quite a few of us black on the same job, doing the same, working the same, so it eventually must be the same money they made.

Q Have you ever seen their checks?

A No, but we work together, so I have no need to see their checks, sir.

Q Are you in 15 or 15A?

A 15, sir.

Q Would it surprise you if I told you that there are only six blacks in 15 that made more money than you did over the last three years?

A Well, I don't know, sir. What do you say? I'll be surprised if?

Q Yes.

A If what, sir?

Q If there were only six, only seven other blacks --

THE COURT: Is this your brief that you are now giving me or is this a question?

MR. DEVORKIN: Well, the man is testifying that he is happy and I want to show why he is happy: because he's taken care of by the union, this particular individual.

MR. BRADY: Your Honor, I will object to that.

THE COURT: The union paid him $28,000?

MR. DEVORKIN: But the union has it within its control to see who is taken care of and who is not.

MR. BRADY: I thought this was a discrimination case, your Honor, based on black and white.

MR. DEVORKIN: All I am examining is the man's biases and interest in the case, that's all.

THE COURT: Go ahead.

Q Do you know that only seven black men made more money than you in the last three years, Mr. Palomino?

MR. BRADY: Objection, your Honor. He said before he didn't see any of the pay checks.

THE COURT: Suppose he is surprised. What is that supposed to mean?

Q Have you talked with any of the blacks that don't make that much money, Mr. Palomino?

MR. BRADY: I will object.

THE COURT: How does he know? Do you discuss with others --

A I don't discuss about no money.

THE COURT: Do you discuss how much people are making with them?

A No.

Q So you don't discuss with other blacks about how much they are making?

A We talk.

Q Do you talk about how much they make?

A We don't talk about how much they make, because everybody goes on the same shift, the same hours and the same pay, so there is no need to talk about that, sir.

Q But you don't talk about that then?

A No.

Q You either talk about it or you don't talk about it?

A No, sir.

Q Do you talk with them about their experiences at the union hall?

A Well, no. We only talk about the work and, like, the life and so on, but nothing, no --

Q You don't talk with them about their experi-

ences at the union hall, is that correct?

A Yes. We all go to the meetings.

Q I don't think I am making myself clear.

Do you talk with other blacks on your jobs about their experiences in the union hall?

A No.

Q Do you talk with other blacks on your jobs about what business agents have told them?

A No.

Q Do you talk with blacks on your jobs about how they got into the union?

A No. Some -- no.

MR. DEVORKIN: I have no other questions, your Honor.

MR. BRADY: No further questions.

THE COURT: Do you have a brother in the union?

THE WITNESS: No, sir.

THE COURT: You're excused.

(Witness excused.)

L E O A S T O N L A T T Y, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Latty, for the record, what is your race?

A My race, black.

Q And are you a member of a union?

A Yes, sir.

Q What union, sir?

A International Union for Operating Engineers, Local 15.

Q And how long a period of time have you been a member?

A Sixteen years, sir.

Q What was the year, if you recall, that you entered?

A In 1959 I went in.

Q Now, in 1959, before you went to the union, what type of work were you doing?

A I worked at the hospital. I worked a pull press operator and then I went to the shipyard as a welder.

A I went to welding school here, sir?

Q Here in the United States?

A Yes.

Q Whereabouts did you go to that school?

A Samuel Gompers Evening Trade School in the Bronx.

Q Do you recall, Mr. Latty, how long that school was?

A I spent about a year and six months in school, evening school?

Q Evening?

A Evening.

Q Working days?

A Working days; school nights.

Q What was your first contact with Local 15? Would you describe that for us?

A Well, I got my welding license from the city and I went in a construction site in the Bronx where I asked for a job. They told me, referred me to a union, saying that they don't need anybody on the job now, but if I go to the union I may be able to get a job.

When I went to the union hall --

Q What union did you go to?

A The Operating Engineers Union.

Q Local 15?

A Local 15.

Q What happened at the hall?

A Went down there and introduced myself, told them what I was and I was sent to a job.

Q Do you recall the person you spoke to in the hall?

A Delegate Willie Keenan and Donald Rogers.

Q Were you sent out to a job the first day you were in the hall?

A Yes, sir.

Q What was that job you were sent to?

A A welding job in Jamaica, Long Island.

Q Do you recall the employer?

A Kelly Pile Driving Company.

Q Did you remain working for Kelly Pile Driving for a period of time?

A Yes, sir.

Q How long?

A One year and 11 months.

Q And what happened to the job then?

A Scarcity of work and I was laid off.

Q After you were laid off, what did you do then?

A Went back to the union hall, reported there, got a job about two days after.

Q What kind of job were you sent to?

A It was welding. The name of the company was Hickey Concrete Company.

T6

Q Now, in this six years including the Hickey job and the Kelly piledriving, were you able to gain any experience in other areas?

A Yes, mechanical experience working on trucks and cranes, payloaders, bulldozers.

Q After the four years at Hickey do you recall where you went to work?

A After I left Hickey I was -- between the four years -- I was laid off then at Hickey. I went to work with Durante Brothers.

Q What were you doing with Durante Brothers?

A Welding and also maintenance on equipment.

Q Did there come a time when you went back to Hickey?

A Yes. After I had gone to other jobs, but I don't remember the names, I went back to Hickey.

Q During that period of time that you were out to other jobs were you being referred to those jobs by the union?

A At all times, sir.

Q How long did the Hickey job last the second time you went back there?

A I think approximately a year or a year and six months.

rp2 Latty-direct

Q After that had you had occasion to use the hall?

A Yes, sir.

Q Tell us, please, in your observation of how the hall works.

A In the morning when you arrive at the hall the delegate takes your names down on a sheet. If there is a job you are sent out by the list.

There are times when, for instance, a man may not be able to work a compressor or maybe certain diesel engines and they want a man to work on it and you are in there that morning and if you are not capable you wouldn't be the first one sent out, but that happens very seldom because the men are capable of doing this kind of work.

Q Are there occasions when you are referred to work before whites are?

A Yes.

Q Are white men who be in the hall before you, would you still be referred before them?

A Yes.

Q Mr. Latty, what is your present job?

A Maintenance foreman now for Thalle Construction Company.

Q Where is that job located?

A At 182nd Street in the Bronx.

rp3 Latty-direct

Q How long have you been a foreman?

A For this company? Since March, but I have been a foreman before that.

Q For other companies?

A Other companies.

Q Mr. Latty, do you hold any office in the local union?

A Yes, sir. I hold the office of trustee.

Q How long have you held that position?

A About a year and two months now.

Q In your experience in the union, sir, have you experienced any discrimination because of your race, from the union?

A Not from the union.

Q Have you had occasion to call upon the union to handle any grievances for you?

A Well, sometimes, not very big. I have never been involved in a very big grievance, but small grievances. I do call the union.

Q Does the union respond to your call?

A The union responds.

Q By the way, when you were sent out to your first job, Kelly Piledriving, did you obtain your union book on this job?

Q Were you an operator then?

A I got it approximately six or eight weeks after I started the job.

Q In your experience, Mr. Latty, have you seen other black members of Local 15 on jobs?

A Yes, sir, most jobs I work on I work with whites and colored.

Q Have you ever been assigned to a job of operating well points?

A Yes, I have. On the first job I got, outside, it was a well point job. It was finished and I still continued to go with the company on other jobs.

Q That first job, you said outside, were you working in shops before that time?

A Always jobs before was a shop job.

Q Local 15-C?

A 15-C.

Q Did you ever ask them to transfer you to outside?

A Yes. In 1969 I think I asked for a transfer. It was granted.

Q You got the transfer?

A Yes.

Q Did you have any trouble getting the transfer?

A No, I had a problem getting the money.

Q This well point job, did you dislike that job?

A No, I didn't dislike it. As a matter of fact, on the job I made so much money I liked the job.

Q If you recall, were there any white men on the well point job that you worked?

A Yes. On that job I think it was only two colored men on this job at the well point. That special well point job.

Q How many whites were on it?

A I think four white.

Q Was that the only time you worked well points?

A I worked on well point jobs after that, but that is the tunnel section and when the watering contractor come in, then the sand hogs and us work together.

Q But you were not unhappy to get a well point job?

A No, I wouldn't be unhappy at all.

Q It still pays the highest rate?

A It does.

Q Now, in your experience, do black members receive the same pay and benefits as white members?

A The rate of pay is always the same. The only thing on different equipment you might operate, but the rate of pay is the same. I work on a payloader of a certain

size, you get the same. The only difference would be the size bucket that you would make some percentage more per hour. There is no difference in pay rates.

Q Just depending on the particular job?

A What the jobs are.

Q In your experience do blacks get sent out to all different types of jobs?

A Different types, and foremen, and every type.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Latty, you are a certified welder?

A Yes, sir.

Q In your experience is there a need for certified welders in the industry?

A It has always been. Right now construction is slow but always been.

Q How often have you actually been down to the union hall?

A All the jobs I mentioned I got, that is how many times I have been down there.

Other than since I have been a foreman, I have been to the union hall several times to discuss things

that happened on the job with my delegate.

Q When you have used the hall to get jobs, if two men are equally qualified to get a particular job, let us say both are certified welders and both equally qualified, how does the union determine who gets the job?

A The first man on the list gets the job.

Q Who determines who is first on the list?

A By getting your name in the morning and the name is taken down by the delegate on a sheet of paper and that is the list.

Q Did you actually transfer from 15-C to 15?

A I asked for a transfer.

Q Who did you ask and how did you make the transfer?

A I asked the president and he told me the amount of money I should take to be transferred, which I did. He informed me of the money and I am ready to come down to the executive meeting and I went to the executive meeting and I was transferred.

Q Did you have to fill out any application?

A No, you don't fill out an application, you sign up.

Q Were you given any kind of test prior to transfer?

A No, not at that stage. You are doing your work

outside before over a year.

Q You are not given any test?

A Not for that transfer.

Q It is an automatic transfer, is that correct?

A Yes, because I was doing the work one year before.

Q You said you were a trustee. A trustee of what?

A Trustee for the union. As a matter of fact, I think it is an honorable position.

Q Excuse me?

A It is an honorable position given to me.

Q What do you do as a trustee?

A Well, you look at the receipts and disbursements, look at them.

Q What do you do when you look at the books?

A What?

Q What do you actually do?

A See if the receipts and disbursements are there, many are passed by the union meetings. See if they are in the book, and I don't go into the book in detail because it is too much money involved to do any auditing.

Q Are you paid to be a trustee?

A No.

Q Purely an honorary position?

A I think so.

Q Do you know if other officers of the union receive a salary?

A Trustees?

Q Other than trustees.

A No, I don't think so.

Q Do you know if the business agent receives a salary?

A I think they do. I am not sure.

Q In your experience in the union have you seen other black officers?

A Yes.

Q Who was that?

A Rufus is a trustee, too.

Q Rufus Brewington?

A I think that is his name.

Q He is a trustee also?

A Yes.

Q Is he still living?

A One died, I don't know one died, I am not sure. Maybe Rufus is the one that died. There is another black trustee there, I don't know his name.

Q Was he a trustee before you were a trustee?

A Yes, he was.

Q Did you replace him as a trustee?

A I replaced a trustee. I don't know the name of the trustee I replaced.

Q Have there been any black men who served as trustee during the period that you have been trustee?

A Yes, there is one now.

Q What is his name?

A I forget his name.

MR. GLASSMAN: Could the union supply this to us?

MR. BRADY: You have it already, Rufus Brewington was a trustee and Mr. Latty replaced Mr. Ben Gatling, who was also black.

MR. GLASSMAN: He indicated there might be another black trustee.

MR. BRADY: That is Ben Gatling. The other black is Rufus Brewington, who was an auditor.

Q In your experience have you ever seen a black business agent?

A No, sir.

MR. GLASSMAN: I have no further questions of this witness, your Honor.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Latty, will youtell us how much you made

last year?

A Approximately $29,000.

MR. BRADY: Thank you.

RECROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Latty, do you know if there are any other blacks who make more than you in the union?

A I can't say.

THE COURT: You are excused.

(Witness excused.)

THE COURT: Why don't we take a very short recess.

(Recess.)

MR. GRADY: I call Mr. Fitzroy Danvers.

F I T Z R O Y D A N V E R S, called as a witness by Mr. Brady, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Danvers, for the record, what is your race?

A Negro.

Q And are you a member of the operating engineers?

A Yes, I am.

Q What local, sir?

A Local 15.

Q For how long a period of time have you been a member?

A I would say four years.

Q Would that be in 1970 when you --

A Yes, 1970.

Q In 1970, had you had any prior experience?

A Yes, I had 18 years experience in operating.

Q Where did you obtain that experience?

A That's in Jamaica, West Indies.

Q What year was it when you came to the United States?

A 1968.

Q When did you first contact Local 15?

A I contacted Local 16 in April of 1970.

Q And can you tell me, please -- describe that. What happened when you first went there?

A Well, how I really got to go to that union hall, I was an operator. Passing on the roads one day and I saw an operator working, so I stopped and asked him how could I get a job as an operator, being an operator for 18 years and things, and he said, "You have to go through the hall," you know.

So I asked him where the hall was and he told me.

Q Was that operator white or black?

A Oh, yes, he was white.

Q And you went down to the hall and did you speak to some business agent there?

A Yes. I went to the hall and I spoke to Tommy Garrity.

Q Did you tell him your experience?

A Yes, I told him my experience.

Q What did he say?

A Well, he said I have to get a letter from the HDA, or something like that, and come back to the union.

So I went and got the letter, came back.

Q When did you come back?

A Then the following day.

Q And were you referred out to work?

A Well, he told me I have to shape the hall because things was pretty slow then at the time.

Q Were there people in the hall when you were there?

A Oh, yes, there was. It was full of people there.

Q Did there come a time when you were sent out to a job?

A Yes, I was sent out to a job about three weeks after.

Q Do you remember what that job was?

A Well, I was operating a scraper at the airport, Kennedy Airport, Marwick Industries.

Q Do you recall how long that job lasted?

A Well, it lasted about 14 months; a year and two months.

Q After that job did you go back to the hall?

A Yes, I went back to the hall.

Q Were you referred out again?

A Yes. I was sent out to Staten Island,

conduit and foundations.

Q How long were you in the hall the second time before you were referred out again?

A About one day. I went down there on Monday and I was sent out on a Tuesday

Q By this time you had gotten your union book, had you?

A Yes. Three months after I got a book.

Q Three months after you went there you got a book?

A Yes, in August.

Q How long did the second job last?

A Oh, that job lasted about 11 months.

Q And did you go back to the hall again?

A Yes, I went back to the hall again.

Q Were you referred to another job?

A Yes. I was sent out to Vernon Boulevard on the subway job with Spirin, Morrison & Slattery.

Q Do you know how long that job lasted?

A Well, I stayed there about a year.

Q Did you go back to the hall after that?

A Yes.

Q How long were you in the hall before you were referred out?

A I would say about a week.

Q Do you recall the job you were referred to then?

A Yes. I was sent to Staten Island, Fitzpatrick.

Q Do you recall how long that job lasted?

A Yes. About three months.

Q What is the present job you are on?

A Well, I work for Slattery Associates.

Q Where is the particular job?

A Hunts Point.

Q How long have you been on the present job?

A Two years on this job.

Q Two years?

A Yes.

Q How much money did you make, approximately, last year?

A Oh, last year I made $28,200.

Q Now, in all the time that you have used the hall for referrals, have there been times when you have been referred out before white men who were waiting in the hall before you?

A Well, they have always been there and they are all waiting, but I've always been sent out.

Q You have always been sent out?

A Yes.

Q And those times you are sent out were both blacks and whites waiting in the hall?

A Sure, yes.

Q Have you experienced any discrimination from the union because of your race?

A No.

Q You have a brother who is also a union member?

A Oh, yes.

Q And what's his name?

A Derek Danvers.

Q Are you known by any other name than Fitzroy?

A Yes. My friends call me Teddy; pet name for me.

Q And your brother's name is Derek?

A Yes.

Q Do you know a man, Jamaican, black man, named Neville Aikman?

A No, sir, I don't know that name.

Q Have you ever worked in Cuba?

A Yes, I worked in Cuba.

Q When did you work in Cuba?

A In 1962 until about 1965.

Q Were you an operator then?

A Yes, I was an operator then.

Q Were there other Jamaicans who were operators there?

A Yes.

Q Did you know most of them?

A Yes, I know most of them.

Q Did you know a man named Neville Aikman?

A No, sir, I don't know that name.

Q On the Slattery job that you are on now, Mr. Danvers, are there any blacks on the job?

A Yes.

Q What jobs are they doing?

A You have cherrypicker operator; you have a mechanic; you have a front-end loader operator.

Q Have you ever been referred to a well point job?

A Yes, one day I was.

Q Do you remember when that was?

A That was a one-day stand in that week that I didn't work. I can't remember. I was sent out one day.

Q That was a one-day stand?

A Yes.

Q Do you remember how many men were working with you on the well points?

A About eight of us.

Q How many were black? Do you recall?

A Three of us were black.

Q Were you unhappy to get that job?

A Oh, no.

Q Good paying job,was it not?

A Well , it's the best rate.

Q Your observations of the dayrooms and the referral system, your observations, are blacks referred out on an equal basis with whites?

A Sure.

Q Do you attend the union meetings, Mr. Danvers?

A Yes, I do.

Q At the meetings are blacks able to address the chair, to talk as well as anyone else is?

A Yes. If you have a beef he can say what he likes.

Q On most of the jobs that you have had since 1970 were there other black members of Local 15 on those jobs?

A Yes.

Q Have you seen foremen who were black?

A Foremen, yes.

Q Since 1970, have you obtained all of your jobs through the union or some of them or --

A All of them through the union.

Q All of them?

A Yes.

Q Have you ever heard of anyone having to pay a union delegate in order to get a job?

MR. DEVORKIN: I object.

A No.

THE COURT: Overruled. You brought it out.

MR. DEVORKIN: Has he ever heard of anybody having to do that.

THE COURT: Well, ask him whether he himself has.

Q Have you ever had to pay?

A No.

MR. BRADY: Well, your Honor, there was testimony from Aikman that he told his friends.

MR. DEVORKIN: This man said he doesn't know him.

THE COURT: Yes.

MR. BRADY: That's correct, but he named

brothers named Derek and Teddy.

Q You have never had to pay for a job, have you?

A No.

Q Did Mr. Aikman ever tell you about paying for a job?

A I don't know him.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Danvers, when you came to the United States you had 18 years' experience as an operator?

A Yes, sir.

Q Do you recall how much money you made in 1971?

A 1971? I would say $21,000 in 1971.

Q Twenty-one thousand?

A Yes.

Q You are sure it's not $7800?

A Sure it's not what?

Q Sure it's not 7800?

A Seven thousand eight hundred?

Q Yes, sir.

A 1971?

Q Yes, sir.

A No.

Q The answer is no?

A No.

Q When you went down to the union hall in April of 1970 and spoke to Mr. Garrity, what did he actually say to you?

A Well, he say I have to get a letter from the HDA.

Q Did he tell you what the HDA was?

A No. It was some government thing.

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Q Did you tell Mr. Garrity before that about your experience in Jamaica?

A Yes.

Q Did he tell you why you had to get a letter from H.D.A.?

A Well, yes. At the time they didn't have a school to test you, something like that, so I went and came back.

Q As I understand your testimony, Mr. Danvers, and you can correct me if I am wrong, you have been in the hall about five or six times to get jobs from the union?

A Yes.

Q Are the subway jobs that you have worked on or the Slattery job that you worked on government jobs?

A Subway jobs? I don't know if they are government jobs. The subway was for the Long Island Railroad and the subway system, that is Vernon Boulevard.

Q How about the Slattery jobs, are they government jobs?

A The one I am on now is a pollution plant, so it got to be a government job.

MR. DEVORKIN: I have nothing further.

MR. BRADY: No further questions.

THE COURT: You are excused.

(Witness excused.)

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MR. BRADY: Derek Danvers.

D E R E K D A N V E R S, called as a witness on behalf of Defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Danvers, for the record what is your race?

A I am Negro.

Q Are you a member of Local 15?

A Yes.

Q Operating Engineers?

A Right.

Q You will have to keep your voice up so these gentlemen back here can hear you.

A Right.

Q How long have you been a member?

A About four years.

Q Before that time had you had previous experience?

A I had previous experience.

Q What was your experience?

A I used to operate equipment in Jamaica.

Q For how long a period of time did you operate in Jamaica?

A Maybe 10 or 11 years.

Q When did you come to the United States?

A Some time during 1968.

Q 1968?

A Yes.

Q Did you obtain work operating equipment at that time?

A No. I just come under the contractor, like, you know.

Q I can't hear you.

A I wasn't operating equipment, I just came in. I was doing like work for restaurants or something,but that wasn't my bag.

Q Did there come a time when you did get a job operating equipment?

A Yes, there did come a time.

Q When was that?

A Maybe it was a couple of months later. I bought a newspaper, one of the newspapers, and saw this ad advertising a job in Jersey.

So I went over there and looked at the job and I got it.

Q You got the job?

A Right.

Q Directly with the contractor?

A Directly from the contractor, right.

Q What was the job?

A I was operating a D-8, a cable D-8.

Q What is a D-8?

A A bulldozer, blade-type.

Q How long did that job last, do you know?

A It lasted for a while, but it was a hassle going back from here and back and forth and I had to get something nearer because the time was giving me a hard time, too.

Q Did there come a time when you went down to the union?

A Yes, there came a time. I inquired.

Q When you went down there can you tell us, please, did you ask for work?

A Well, I went in, introduced myself, right? I saw this business agent, and I think it was Johnny Murphy, and, like, I told him the type of equipment I operated and he said, "There's a lot of guys sitting in the hall."

He took my name and all that, my references, and he said, "If you want you can sit in the hall and shape the hall."

Q Did you sign the list in the hall?

A Yes, I signed the list. He put my name on the

list.

Q Were you sent out to work?

A Not immediately, because the other guys were sitting there before me.

Q The hall was crowded?

A Right.

Q Did there come a time when you were sent out to work?

A Yes.

Q Do you recall what that job was?

A It was a Slattery job doing that Grand Central Parkway. He sent me over there.

Q What kind of work were you sent out to do?

A I was sent to operate a Turner dozer, pushing scrapers, that type of work I was doing.

Q Do you recall how long that job lasted, Mr. Danvers?

A I spent over a year on that job.

Q The first job you were sent to?

A Yes, the first job I was sent over to.

Q Did you then go back to the hall?

A After that, yes, I went back to the hall. Things got slow, so I went back in.

Q When you went back in, were you referred out to

other work?

A Yes.

Q Have you ever been assigned to well point work, Mr. Danvers?

A Yes, I have.

Q How many times, do you know?

A I think it is twice.

Q Were you unhappy to get that work?

A No, on the contrary, I was -- things were kind of slow, it was all right.

Q Do you remember how many men were in the group of the well point gang?

A I think in my group I had about four guys or five guys.

Q Were some of those men white?

A Yes.

Q How many?

A I think I was the only colored guy in that group.

Q Do you have any complaints of discrimination because of your race from the union, Mr. Danvers?

A Not that I can think of.

Q In your observations are blacks referred out on an equal basis with whites?

A Yes, as far as I can see, you know, like you got

a list, right? And each person on the list before goes out and that is it, right?

Q Do you attend union meetings, Mr. Danvers?

A Well, once. But I am a night worker, so I can't go over there.

Q From your observations do blacks have the same opportunity to speak at the union meeting as whites do?

A Yes. If you have anything to say, you know, you can say it.

Q About how many jobs have you had since you went to the union, roughly?

A Maybe two or three or four, but I have been on lots of them, anyway.

Q Have you gotten all those jobs through the union?

A Yes, all through the union.

Q What is the present job you are on?

A On the subway job, Second Avenue, with Cayuga Crimmins.

Q How long have you been on that job?

A Maybe six months.

Q Have you seen other black members of Local 15 on the jobs that you have worked since you have been in the union?

A Yes, I have seen other black members.

Q What were those members doing?

A You got members working equipment like maintenance work, well point, doing everything.

Q Mr. Danvers, do you know a man Nevil Aikman?

Q Not by name.

Q How much money, approximately, did you make last year?

A About $20,000.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Danvers, I believe you said that you had about 10 or 11 years of experience when you came to the United States?

A That is correct.

Q You came in 1968?

A Right.

Q You testified that you found your first job in New Jersey through a newspaper?

A Right.

Q Where did you live at the time?

A I used to live in Brooklyn.

Q Had you tried to get any jobs in New York at

that time?

A No, I didn't. Like I say, I didn't know nobody, right? I had to buy the newspaper, I am a stranger, so I bought a newspaper and looked in the ads advertising for a job.

Q Were you working for any local union in New Jersey?

A No.

Q What kind of work were you doing there?

A Operating a bulldozer.

Q Do you know what the wage was?

A $4 an hour.

Q How did you eventually hear about the union in New York?

A I passed equipment going on the World Trade Center, excavating, and I saw the guys working down there. I love equipment, so I asked the guys how you get in. So they told me where the union hall is in lower Manhattan.

Q Were these operators on equipment?

A Yes.

Q White or black?

A A white fellow.

Q You testified that Johnny Murphy when you first went to the hall told you to sit down in the hall?

A Right.

Q How long was it before you got your first job?

A Maybe about five or six weeks.

Q When did you get your union book?

A A year after I was working with Slattery.

Q A year after you started working with Slattery?

A Right.

Q Had you been working during the entire year?

A Yes, on a permit, right.

Q A permit from Local 15?

A Yes.

Q Do you know if there were any people who were working on permit for a period of time?

A On that same job?

Q Yes.

A I don't know.

Q Did you ask for a book on that job?

A I didn't ask, no. Will you rephrase that, please?

Q Did you ever ask to get your book on that job?

A No, I didn't ask. I went back into the union and they gave me the book.

Q The union sent you on this job?

A Right.

Q Did they tell you after a year why you were getting the book then?

A I guess because I was working I got the book.

Q What? Did they tell you why you were getting the book after a year?

A No, nobody told me.

Q Do you know who you talked to at that time?

A I talked to the president.

Q Tommy McGuire, Sr.?

A Yes.

Q Do you know what he told you?

A Told me to come in and get the book on a certain night. I came in and got it.

Q Why did you go to the hall at that time?

A Because I was laid off on the first year, after that.

Q Can you tell us again in your experience when you go to the union hall, people sign up for work in what order?

A Form a line and sign up. The delegate comes out, takes the list, you form a line and sign up, make a line.

Q Does the line form at the very beginning of the morning or wait until the delegate comes out?

A Until the delegate comes out.

Q Is it your understanding that the first person on that list is the first one referred out to a job if he is qualified?

A Yes, I think so.

Q That is your understanding of how it works?

A Yes.

Q Are you related to Fitzroy, Teddy Dangers?

A Right.

Q What relationship?

A My brother.

Q Do you know a Garfield Danvers?

A Right.

Q Is he related to you?

A He is my nephew.

Q Is he a member of the union?

A Yes. He is a member of 15, right. 15A, right.

Q Do you know when he got into Local 15A?

A I don't remember the exact time.

Q Do you know whether it was recently, in the last half a year?

A I think it's recently, yes.

Q Do you know how I found out about the union?

A I think he was informed by his father.

Q What?

A I think he found out through his father. His father worked in the union, so he must know about the union, right?

Q Do you know what kind of work he was doing last year?

A I think he was doing maintenance, I think.

Q Did you ever discuss with him how much money he was making last year?

A No. I doln't discuss money against -- with nobody. I don't want nobody to discuss my money either.

Q Do you know if he was making as much as you were?

A Like I said, I don't discuss his money.

MR. GLASSMAN: No further questions.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Do you know if Garfield Danvers is a graduate of the apprentice school?

A Yes.

RECROSS EXAMINATION

BY MR. GLASSMAN:

Q Do you know what apprentice school he is a graduate of?

A The union school.

Q Do you know how he got into the school?

A Like I said before, his father is a member of the union, right? So he worked for them -- I mean that's the way he got in, right?

Q Did his father get him into the union, if you know, get him into the school?

A I don't live with the man. He must. I think so.

MR. GLASSMAN: I have no further questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: What time shall we adjourn to?

MR. BRADY: Your Honor, I have to be there at 2 o'clock. It will take me about an hour, I think.

THE COURT: Do you want to start at 3 and go for an hour and a half? I can go all tomorrow.

MR. BRADY: Whatever your pleasure is, your Honor. I have witnesses.

THE COURT: I know you have witnesses here and I don't want to bring them back so why don't we adjourn until 3 o'clock and then we will take as many witnesses as we can and the balance we will get tomorrow.

MR. BRADY: Thank you.

(Luncheon recess.)

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AFTERNOON SESSION

3.15 P.M.

MR. BRADY: Mr.Drakes.

WALTER DRAKES, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr.Drakes, for the record, what is your race?

A Human race, black.

Q Are you a member of Local 15?

A Yes.

Q How long have you been a member of Local 15?

A About two or three years, Local 15. I was originally 15-C.

Q When did you join Local 15-C?

A I joined Local 15-C about 1961.

Q At that time, Mr. Drakes, what kind of work were you doing?

A Well, really I start at the bottom with a steam jenny and I work my way up to the top.

Q Where had you first gotten your experience?

A I came here with experience.

Q Where did you come from?

A I came from the Panama Canal.

Q What kind of experience did you have at the Panama Canal?

A I had around 15 or 20 years running around equipment, automobile, mechanical and industrial.

Q Did you attend any schools?

A In Panama, yes, arts and crafts.

Q Did you attend any schools in the United States?

A No, I did not go to school here.

Q What subjects did you take in school in Panama?

A We had to learn our trade, which is mechanical, basic mechanic.

Q What year was it that you came to the United States?

A I came here to the United States for the very first time in 1957. I went to Du Pont Laboratories. I studied there and I went back to Panama and I came back in 1969.

Q In 1969?

A Yes.

Q What date was it you said you joined Local 15-C?

A About a few months later. 1969, December, I came here and a few months later I joined the local.

Q Can you tell us how you came to join Local 15-C?

A It so happened I had a friend of mine was in the local and he was working on this job and he told his boss that I have a good man here to do a job that he had to do.

Q Who was the boss?

A Rusciana & Del Blasio Company. They were at 2 Secor Lane, in Pelham.

Q Did you go and get a job there?

A I went there after my friend speak to him and he gave me a job. He was working there.

Q How did you come to join the union?

A The delegate came and saw me working, asked the shop steward who was I. We made a formal introduction and he gave me permission to go ahead working.

He made periodical checks if I know what I was doing, if I could work, and how I get along with my fellow workers.

Q Were you then admitted into the union?

A Then one day he came and says, "Come down to the hall Thursday night, you will get a book."

Q How long a period of time did you remain working for Rusciana & Del Blasio?

A Approximately three years.

Q Three years?

A Yes.

Q Was that work all shop work?

A All shop work, taking care of heavy equipment.

Q What type of work were you yourself doing?

A I was washing them, straightening them, painting them, mechanic them, all around, welding.

Q What was your title there?

A I was a B man when I started out.

Q B mechanic?

A B mechanic when I started out.

Q Did you then change your job after three or four years?

A Change jobs?

Q Did you go to some other employer?

A Yes, I went from there to Rusciana, and that was 500 Zerega Avenue.

Q Also a shop?

A Also a shop.

Q What type of work were you doing there?

A Similar, same job.

Q How long did you continue in that job?

A About a year or a year and a half, something like that, and he went out of business.

Q What did you do when he went out of business?

A I went back to the hall.

Q Had you been to the hall before that?

A Yes. I go to the hall whenever I have been laid off and they send me out.

Q How long did you have to wait in the hall before you were sent out?

A Well, I go in and put my name on the list.

Q Yes?

A I wait until they send me out, which, if I can remember, I think I only collect Unemployment for about two weeks. So it must be about two or three weeks I was out.

Q How long did the third job last, do you recall?

A The third job, which was I think I went to Edward J. Petrillo.

Q Was that shop work also?

A Shop work also, Central Avenue, Yonkers.

Q How long did the Petrillo job last?

A Not very long, about three or four months, and they went out of business. Not that they went out of business, but the contract they were going to get from the State, they didn't get it, so I was laid off.

Q Did you go back to the hall?

A Back to the hall.

Q Were you referred out to employment?

A I went and put my name on the list,and if I am not mistaken, I went to M.F. Hickey. That was in Metropolitan Avenue.

Q How long did you have to wait before you were referred out?

A Oh, that wasn't too long. Maybe a week or two, the maximum.

Q Did there come a time when you changed from Local 15C to Local 15?

A Then I went to Bell Eastern Corporation and I was there for seven years.

Q Seven years in Bell Eastern?

A Yes. And I actually graduate because then started to work on the heavy stuff and the big stuff then.

Q Prior to that time you hadn't worked on too much of the big equipment.

A Well, yes, but I mean I really didn't had the access to them that I had there.

Q What kind of equipment did you work at Bell Eastern?

A Bell Eastern Corporation was a representative of American Crane. They were a representative of American Hoist & Derrick, Petty Boom, loaders like -- there is a loader that -- the front-end loader they used to have there. And then there was a representative of German machines too. Then they went out of business.

Q And what did you do then, Mr. Drakes?

A Well, when they went out of business I was hanging around for a while because they had owed me $1300 salary and the union got it for me a year after.

Q What is your present job, Mr. Drakes?

A My present job is with the water tunnel, mucker mechanic.

Q Where is that job located?

A Welfare Island or Roosevelt Island, which is the same thing.

Q On that job, Mr. Drakes, are there other black members of Local 15 employed?

A Yes.

Q What are those members doing?

A I know one that runs the payloader upstairs. When I go down in the hole I don't know what goes on upstairs, but I know on the mucker machine I am there. On the jumbo there is two or three guys there. There is locomotive men too.

Q Are they local 15 men as well?

A All 15.

Q Have you ever been assigned out to well points?

A Well point, no. I heard of it but I never

really worked on them. I have seen them but I never really was assigned to them.

Q Have you ever experienced any discrimination because of your race from the union?

A No. I have had very good relations with the union where that is concerned and they have sent me out on jobs, treated me, though my picture is not in the records there, but they have treated me fair.

MR. BRADY: I have no further questions, your Honor.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Drakes, how old are you?

A Fifty-four for the records.

Q How much experience did you have in Panama in terms of number of years?

A Oh, one place I was 20 years working in one place.

Q As a mechanic?

A Yes.

Q Would you say that that experience you had in Panama was good experience for the kind of work in the

United States?

A I wouldn't change it for nothing. I wouldn't change it for nothing.

Q Are there some things that you learned or did in Panama which you haven't yet put to use here in the United States?

A What you said?

Q Are there some things that you learned as a mechanic in Panama that you haven't yet put to use here?

A Well, I wouldn't say this, no.

Everything here, all what I have learned here has served me here, put it that way.

Q Do you know from your experience here in the United States whether mechanics are usually in high demand in New York City?

A Oh, yes, good ones are in very high demand.

Q And you wouldn't have any trouble getting a job today if you went out and looked for one, would you?

A Oh, no.

Q When was it that you came back to the United States permanently from Panama?

A December, 1969.

Q Before December of 1969 had you ever gone to the union?

A Before 1969? Never.

Q You never sent before '69?

A No.

Q You are sure about that?

A I am positive.

Q Now, your present job is on the water tunnel in Welfare Island?

A Present job, yes.

Q How long have you had that job?

A How long? Maybe about four or five months now. Time goes so fast, give or take a month.

Q You work the midnight shift down there?

A Midnight.

Q Do you know whether that's a government job?

A If it's a government job?

Q Yes, sir.

A I presume so, yes.

Q And before you worked on the water tunnel four or five months you worked for Bell Eastern Corporation?

A No.

Q Who did you work for before the water tunnel job?

A Before this one that I am on?

Q Yes.

A I was at water tunnel at George Washington Bridge.

Q How long were you there?

A About a year and a half, approximately.

Q What kind of work were you doing there?

A I was heading mechanic. I was also on the -- taking care of the agitators.

Q That was a year and a half?

A More or less.

Q Before that job which job did you hold?

A Before that job?

Q Before George Washington.

A I was at two or three days for Durante Bros.

Q Before Durante, who?

A Bell Eastern.

Q You were at Bell Eastern for seven years?

A Seven years.

Q That was in the United States?

A Yes. Yonkers, up here.

Q Before Bell Eastern you worked for M. F. Hickey?

A Right.

Q That was in the United States?

A Yes, Metropolitan Avenue.

Q For four years?

A More or less.

Q Then before that there was the Petrillo job for a couple of months?

A Yes.

Q And what was the job you had before the Petrillo job?

A Before Petrillo job? Rusciano and -- that was Rusciano.

Q That was the second time at Rusciano?

A No. Rusciano, and Del Blaso is one company and Rusciano is another company.

Q The Rusciano job was a year and a half?

A More or less.

Q That was in New York City?

A Yes. Give and take.

Q And before that you worked with the first job and that was three or four years?

A The first job was not three or four years.

Q Which was the first job?

A The first job was Rusciano, a year and a half, two years.

Q What about the Rusciano and Del Blaso job?

A Well, combine them four, if you want.

Q That was four years all told?

A Combine them four if you want, yes.

Q How long were you on that first job before you got your 15C book?

A A couple of months. Give and take two months and a half, something like three months, maximum.

Q Do you recall how many times that the union delegate came out to the job while you were on the first job?

A Well, the union delegate was Don Rogers and he used to make periodical checks to see how everything was and I would say once a week or every two weeks he might drop in.

Q Did anybody ever complain about your work there?

A Never, never.

Q The first time he was out there he gave you permission to stay there?

A Well, you see, he asked who I was. He was the delegate on the job so I was introduced by the shop steward.

So he gave me permission to work.

Q Did he ever do that again when he came out to the job?

A He didn't have to do it again.

Q The first time was enough?

A That once is enough.

Q Did you have any trouble transferring from 15C to 15?

A No trouble at all.

Q Was it pretty much automatic?

A I don't know but it was good for me. I had no trouble, I had no trouble.

Q Did anybody ask you any questions about it?

A No.

As a matter of fact, one delegate said, "I am sorry to lose you."

Q That was in 15C?

A One delegate say, "I am sorry to lose you" to the other delegate.

Q At the time you got your 15C book were you ever told anything about being an American citizen even by any of the union delegates?

A I have been an American citizen years ago.

Q Maybe I didn't make my question clear.

Did a union delegate ever tell you that you had to be a United States citizen to join the union?

A Yes. I had intention papers. Do you know

the intention papers that you had before you get the original?

Q Yes. I just wanted to understand your answer, though.

A union delegate told you that you had to be an American citizen to join the union?

A But this I knew. I didn't want for him to tell me this. This I knew and I got my intention paper before.

Q Did he also tell you that?

A I can't recall if he told me this.

Q How did you know it?

A How do I know it?

Q That you had to be a citizen of the United States to join the union?

A To enjoy any privilege of any country you go to you should be part of the country?

Q How did you know that you had to be an American citizen to join Local 15?

A I didn't know that I had to be to join Local 15. I wanted it for my benefit and I bot it.

Q Do you remember a conversation you and I had on the telephone last night?

A Yes.

Q Do you remember telling me that a delegate did tell you that you had to be a member of the union?

A I don't remember telling you that a delegate told me this. I don't remember telling you a delegate told me. I told you I was a citizen.

Q I see. I must be mistaken.

Do you have any relatives in the union?

A No.

Q Do you know whether many other members have relatives in the union?

A If I know any other --

Q Do you know any members of the union that have relatives in the union?

A I hear names corresponding, but I don't know if they are cousin, uncles or brothers or sister or father and and son. I don't know this.

Q Do you hear that frequently? I hear names that coincide with the other. I don't know if they are cousin or uncle or father.

Q Have you ever made an application to enter the union's apprentice training school?

A No, I never, but I pay for it.

Q Have you ever applied to get in the school?

A I never apply, no.

Q Did you ever ask a delegate to get into it.

A I never asked a delegate.

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Q Never complained to anybody about not being able to get into it?

A I never asked. I don't want it. I have enough problems in the work I do. I am a very good man. I think I can take care of what I got. I don't want no more problems.

Q Again I ask you whether you remember a conversation you had with me last night. Do you remember telling me that you applied for the school and they wouldn't let you in?

A I told you this?

Q Yes, sir.

A Strike it from the record. I didn't say it.

Q That is not true?

A No, I didn't say this.

Q Do you ever go to union meetings?

A All the time, whenever I can.

Q Did you go to a meeting last Thursday night?

A I got there a little late.

Q In the Manhattan Hotel?

A Right.

Q Were all the business agents there?

A I think I can picture the faces on there, yes.

Q Do you remember whether this case was discussed?

A When I got there they were telling us about the jobs and then after that told us where we can mail the book in for, the stamp books, and the coming up of a vote and so forth.

Q Maybe I didn't make my question clear -- is there something funny about the question I am asking?

A No, I am listening to you.

Q Do you remember the union delegates discussing this case at that meeting?

A This case?

Q Yes.

A They told us that we were on trial, yes.

Q What else did they say about this case?

A Well, I don't remember them saying anything.

MR. BRADY: I am going to object to this line of questioning. I don't see its relevance to the issues at trial.

THE COURT: I am a little surprised at the government going into it, but I don't believe it is going to make much difference. I dont know what the government wants to develop.

MR. DEVORKIN: The only point I am trying --

THE COURT: I am not stopping you.

MR. DEVORKIN: There is some uncertainty.

My only point is that one of the issues with every witness is the man's credibility, and I thought this line of questioning would be probative of that questioned credibility.

THE COURT: You don't deny he is a member of the union?

MR. DEVORKIN: I deny he is telling the truth, but I think I can bring that out.

THE COURT: I don't think that is a proper comment from counsel.

Q Mr. Drakes, you were at the meeting on Thursday night?

A Yes, I was.

Q Did you listen pretty carefully to what was said?

A When I got there the meeting was already in progress.

Q I understand. After you got there the subject of this case came up?

A This case?

Q Yes.

A No. We were talking about, one, jobs that were supposed to come up, that we were supposed to get but haven't gotten because of lack of funds or what not.

We were talking about mailing the books in, so

those unemployed can get their money ahead of time, and really I can't go through the minutes of the meeting to give you in public here minute for minute. I don't remember. I don't recall everything.

Q Just a minute or so ago you did say,however, that the delegates mentioned that you were on trial here?

A That we were on trial.

Q Did they say anything else about this case?

A No, not to my knowledge.

THE COURT: Did they tell you to testify untruthfully here?

THE WITNESS: Untruthfully?

THE COURT: Yes.

THE WITNESS: No.

Q Did they curse some of the members who already testified?

A Curse some of the members?

Q Of Local 15 who had already testified.

A Cursed in what manner?

A Specifically did Dan Murphy stand up and say that the black members who had testified were sons-of-bitches?

A I didn't hear this.

MR. DEVORKIN: I have nothing further, your

Honor.

MR. BRADY: Just a few questions.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Drakes, you said that you were using the year 1969 before as your admission date?

A Not in the union. 1969 I came to this country, December, 1969.

Q Was it 1969 or 1959?

A 1969.

Q Are you sure?

A No -- 1959, you are right.

Q That is a little discrepancy in your time?

A Yes.

Q How much money did you make last year, approximately?

A Twenty-seven, to be exact.

MR. BRADY: No further questions.

RECROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Drakes, are there anything else that you are not sure about?

A Such as?

Q Anything you testified to?

MR. BRADY: I objectto this.

THE COURT: I really must ask counsel to conduct himself --

THE WITNESS: For the record, my language of confidence is Spanish. I can barely accommodate you in English.

MR. DEVORKIN: The only reason I asked the question was that he was absolutely positive that he came here in 1969. Now he changed his mind and I thought there might be something else he wants to change his mind about.

THE COURT: All right, very well, you asked him.

MR. DEVORKIN: That is all.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Mr. Young.

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ANTHONY OVERTON YOUNG, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Young, for the record, what is your race?

A Negro.

Q You are a member of Local 15, are you not?

A Yes, I am.

Q How long have you been an operating engineer?

A Do you mean in the locals themselves?

Q In the locals.

A I would say close to 17 years.

Q You first entered Local 15-C, was it?

A 15-C, yes.

Q At that time were you employed?

A Yes, I was.

Q With whom were you employed?

A Boring, Incorporated.

Q What was your job at Boring, Incorporated?

A When I was first employed?

Q Yes.

A When I was first employed I was hired as a sort of handyman and whatnot.

Q Were you hired directly by the employer?

A Yes, directly by the employer.

Q What happened after that?

A Well, about two years later the delegate had been coming around and he felt that the type of work that I was doing at the time comes under the jurisdiction of the Operating Engineers.

Q Is that when you joined the union?

A Yes.

Q At that time did that change your pay rate?

A Considerably.

Q Do you know how much more an hour you got after that?

A Well, I will tell you, when I was hired I was making $1.85 and after I got in the union it was over $3.

Q Did you continue working for Boring for a period of time?

A Yes, I did. The last date I worked for them was in 1968.

Q During that time, from 1958, was it, until 1968 --

A No, 1956, I first worked for Boring.

Q Until 1968?

A Yes, sir.

Q What kind of equipment were you working on?

A Well, we worked on practically all kinds of equipment. When I say all kinds, we weren't what you call like most construction companies doing foundations and whatnot. We done a type of boring which is going through unaccessible places such as underneath railroads and stuff like that.

At the time there was cherrypickers, a type of boring machine that ran on rails, hydraulic equipment, things of that sort.

Q Was it your job to repair this equipment?

A Repair and maintain it.

Q Did you get an opportunity to learn how to operate any of it?

A Yes, the cherrypicker, some hydraulic machinery.

Q After 1968 did you change your employment?

A Well, we got laid off. Things were slow and for the record they soon went out of business after that.

Q What did you do after you were laid off?

A After I was laid off, I went down to the union and it was a bad time of the year, close to around Christmas. So about six weeks later I was referred out to another job.

Q What was that job?

A On the outside, this time.

Q With whom were you working?

A Hallen.

Q Are you still working with Hallen?

A Yes, I am.

Q About that time did you change from 15-C to 15?

A Yes. After I started working with Hallen it was about a week later I was told to come down one night and my book would be changed over.

Q What type of work are you doing with Hallen, Mr. Young?

A At the present time we are maintaining the gas lines for Con Edison.

Q Do you do any welding on that?

A No. My job is mostly just with the compressors and what not.

Q The equipment?

A Yes. I had done some welding, but that is not the main thing.

Q Mr. Young, you haven't had that much opportunity to be referred out of the hall since you were a member?

A I have been referred out -- things got slow in 1968, I was laid off.

Q Is that with Boring?

A Yes, with Boring. And I was out of work, but

it wasn't long, and I was referred to Conduit Foundation. I worked with them three weeks and there was a layoff. They finished up. They had a small pipeline job and that finished up.

I was out of work until I went back -- I called Boring again and they were working again.

Q Those jobs were you referred by the union?

A Yes -- wait a minute. The second job when I called back to Boring --

Q You got this yourself?

A I got that, but then I had told my business agent that I was going back to work and took my name off the list.

Q You got the job yourself?

A Yes.

Q In your years in the union, Mr. Young, have you experienced any discrimination because of your color, from the union?

A No.

Q Do you attend union meetings at all?

A Yes, I do. This past one I didn't attend because it was my church's anniversary.

Q At union meetings are blacks given the same privilege of talking as whites are?

A When you say that, you go everything by procedure, being recognized by the chair and from then you speak up and speak whatever is on your mind.

Q On the jobs that you have worked have you seen and known other members of the union who were black?

A Yes.

Q What types of jobs have you seen them referred to?

A The same types of jobs as anyone else.

Q I take it you have never been referred on a well point job?

A No, my company was in a few, but I was never on any.

Q Approximaely how much money did you make last year?

A $20,000.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Young, did you work steadily for Boring between 1956 and 1968?

A Yes, except for this layoff time.

Q How long was the layoff time?

A Altogether it amounted to about six weeks, but I wasn't out of work six weeks.

Q But during that 12-year period you were, aside from that period, steadily employed by one company?

A Yes.

Q How long have you worked for Hallen?

A Ever since I got the job in 1969.

Q You have been doing pool work or new work?

A Pool work.

Q Have you done any new work?

A Not with Hallen.

Q Do you know if anyone working for Hallen has done new work?

A Wait a minute, yes, I did. I made a mistake. I had an opportunity, I think it was last year. We worked on a steam line at 58th Street and Sixth Avenue. I worked on that approximately about five weeks.

Q Aside from those five weeks have you ever done any new work?

A No.

Q Do you know if other people working for Hallen do a lot of new work?

A Well, some people do new work when there is new work to be done.

Q Do you know if they are mostly white or black?

A Well, everybody gets an opportunity, whatever the work is coming up.

Q You have only gotten five weeks of that?

A Well, when I say that this is all that, the new work that I know about that came up that I was, you know, involved in. What else they had I am not sure.

Q How did you make the transfer from Local 15C to Local 15?

A Well, when I was out of work they had -- when I went down there to the union, the union had -- when they referred me out to the job, to the outside job, and with the outside job you need an outside book.

So I was able to transfer over because they felt that I was qualified.

Q Was there any difference, aside from the location, any other difference in the type of work you did

in 15 or 15C?

A Well, there is some, yes.

Q Can you tell us what the difference is?

A The difference, well, it's more or less where in the shops you are more or less under supervision of -- well, I guess you would call them -- a foreman, and the type of work I am doing now you are more or less on your own in a certain way of speaking.

Q There is no maintenance foreman in your present work?

A There is a maintenance foreman to cover people but you are more or less, being a fully qualified man -- you are more or less to take care of your own.

Q Do you have any relatives in the union?

A Not that I know of.

MR. GLASSMAN: I have no further questions, your Honor.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Is it your employer, Hallen, who assigns the workers to the new work?

A I can't actually explain this in that fact. All I know is that when I was -- you know, when they had this coming up they asked me --

Q Who asked you?

A My -- well, I guess you would call him my maintenance foreman, you know.

They send you out, they send, you know -- send out -- I guess they give you a chance since you are working for the company. I am not sure.

Q But that's the employer who determines that?

A That's the employer, as far as I know. I am not sure.

RECROSS EXAMINATION

BY MR. GLASSMAN:

Q For the record, how old are you?

A I am 50 years old.

THE COURT: You are excused. Thank you.

(Witness excused.)

R U B E N I C Q U I E R D O, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Your last name is Icquierdo?

A Yes.

Q For the record, Mr. Icquierdo, what is your

race?

A Cuban and Spanish.

Q And are you a member of Local 15?

A A member of Local 15A.

Q How long have you been a member, sir?

A Four years. It's going to be four years now.

Q Four years ago did you have experience in your line?

A Oh, yes. I have experience from Cuba. I have been working in the machine since the age of 14 years old.

Q Since the age of 14?

A Yes.

Q And in Cuba, you say a machine shop?

A No, no. I operate all kinds of equipment. Every equipment. Bulldozer, payloader.

Q And how was it you came in contact with the union?

A I have a brother that's a man with the Local 15.

Q A brother in Local 15?

A Yes.

Q Is he an older brother?

A Older than me.

Q Did your brother teach you anything?

A No. I don't know -- I do from Cuba.

Q When did you come to the United States?

A December 6, 1959.

Q Did you come to New York then?

A Straight to New York.

Q What kind of work did you do when you first came?

A I do? Clean the floor in the factory, work there for about a year. And then some of my friends live on the second floor of the building used to live in and they asked me, "Do you want to be a helper, electrician's helper?"

Q Electrician's helper?

A Yes.

Q How long did you do that?

A Nine years.

Q What was your first contact with Local 15?

A It was five months after I met Mr. Danny Murphy on Foster Avenue -- I don't remember if it's Foster Avenue in Brooklyn or Queens Plaza in Brooklyn. I don't remember exactly where it was.

Q Where did you see Mr. Murphy first?

A On the job.

Q On the job?

A Yes.

Q Were you working on the job then?

A I working there, yes.

Q How did you get the job? Do you recall?

A By Mr. Durante Bros.

Q You were working for Durante Bros.?

A That's right.

Q What were you doing for them?

A Operate the heavy equipment, bulldozer, payloader; everything.

Q Did you get that job on your own?

A On my own.

Q Mr. Murphy saw you on the job?

A That's right.

Q What did he say to you?

A My boss told, "I have a man working," and he gave me a permit to work.

Q He gave you permission to work?

A That's right.

Q Now, did there come a time when you got a book?

A Yes, sir.

Q How long after that did you get a book?

A It was March or April. It's about six months, three months, before I got the book.

Q Are you still on the same job?

A No. I got another job now.

Q Did you get the second job on your own or did the union get it?

A The union get it for me.

Q You went to the hall?

A That's right.

Q And you were sent out?

A That's right.

Q And how long were you in the hall before you were sent out?

A Say about two hours or three hours. All depends, you know.

Q The second job, what were you doing on the second job?

A I worked on the water tunnel down here for two weeks.

Q Doing what?

A Maintenance man.

Q And is it then that you got your book?

A Excuse me?

Q Did you get the book then?

A Yes. I get my book before I go on the tunnel job.

Q Before you went on the tunnel?

A Yes.

Q Since 1971 you have used the hall for referral?

A Only once.

Q Only once?

A Yes.

Q Where are you working now?

A Right now?

Q Yes.

A Starrett City.

Q What are you doing on Starrett City?

A Maintenance man.

Q How long have you had that job?

A Since about seven months.

Q How did you get that job?

A By the hall.

Q How long were you in the hall before you were sent to Starrett City?

A About an hour.

Q Since you have become a member of Local 15A have

experienced any discrimination?

A Never any, I don't have no discrimination from the union or from nobody in this country. It's the best country for people who want to work. They don't want to work, they stay home.

Q Do you go to any of the union meetings?

A Yes, I do.

Q Do you see any discrimination at the meetings?

A Not at all.

Q Have you ever been sent out on a well point job?

A Yes, I did.

Q Were you sent by the union?

A Yes.

Q Were you unhappy about that?

A I not unhappy. I make my salary; that's it.

Q You what?

A I make my salary. Doesn't matter where I work.

Q You make your salary?

A That's right. The most important thing for me.

Q Your present job at Starrett City, are there members of 15 on that job who are black?

A Yes, sir. We have three trainees and then we have quite a few, maybe five or six, colored guys operating the machines.

Q Are there any people on that job that you know of that are Spanish?

A Across the street. I no have Spanish guys there.

Q You know other people in the union who are Spanish or Cuban?

A I know we have four or five, four Cubans. We have a lot of Puerto Ricans, but I don't know them by name. I can't mention by name.

Q Approximately how much money did you make last year?

A About 19,000.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Icquierdo, you said you came to New York in 1959, is that correct?

A Yes, December 6,1959.

Q Did you ever seek any work doing maintenance work on machinery or as an operating engineer between 1959 and 1970?

A In my country.

Oh, excuse me.

Q No. After you came here, between 1959 and 1970 did you try to seek work practicing your trade as an operating engineer or as a mechanic?

A I don't get that.

Q In this country, before you went to the union, before 1970, did you try to find work here as an operating engineer, as a mechanic?

A I never tried before.

Q Why did you not try to get that work?

A Why I don't try to get that? Because today I don't speak English, but before I don't speak nothing at all. I can try.

Q You said you worked, I believe, as a janitor and then as an electrician's helper?

A That's right.

Q How did you find that work?

A From my friend.

Q How did you find the job at Durante?

A By my brother.

Q He told you about the job?

A Yes.

Q Was he working there at the time, if you know?

A He worked in the same company.

Q What job were you working on when you got your union book?

A Operator heavy equipment, you know.

Q Was that at Durante or another place?

A Durante.

Q How long had you been working at Durante before you got your union book?

A I started with Durante. I started with the same company, Durante Bros. I worked about six -- five or six months, seven months, without a book, you know.

Q Did a union delegate visit you on that job before you got the book?

A No.

Q Was Mr. Murphy on that job?

A Excuse me?

Q Did Mr. Murphy visit you on the job?

A He meet me on the job about six months, four

months after I started to work.

Q After you started to work there?

A Yes.

Q He did not show up at that job for about six months?

A That's right. No. I mean to say four months, you know. He knows I working because, you know, my brother is in the union. He cleared me to work.

Q He knew you were working there?

A That's right.

Q How many times had you used the union hall?

A About two times, two or threr times, between that.

Q When was the first time you used the hall?

A Let's say March, '71 or something -- March, '71.

Q Did you have to sign a list when you went to the hall?

A Yes, I signed a list.

Q Did anyone tell you you had to sign a list?

A No. I see the book there and I signed. Nobody told me what to sign. I see the book there, I don't know what's that. I signed up. I don't know it's a good thing or wrong thing. I don't know.

Q When you went to the hall that first time what kind of a job were you sent to?

A Water tunnel.

Q How long was that job?

A Two weeks, because my company, the company I used to work, they called me back again.

Q Were you substituting for anyone on that job?

A I don't know, because I went up -- somebody went on vacation for two weeks and they wanted me to stay there, the maintenance foreman. I says, "I call my boss," and the boss say, "Okay, come back to work."

Q When you were sent out there you were told you were substituting for somebody who was on vacation, is that correct?

A That's right.

MR. BRADY: Objection, your Honor. He testified he was there for vacation.

A That's right.

Q Mr. Icquierdo, how old are you?

A Forty-four.

Q About how many years total experience operating heavy equipment have you had?

A I got almost all equipment.

Q About how many years?

A I started when I have 14 yeard old up to today.

Q I think you said you worked on a permit from the union before you became a member of the union, is that right?

A Oh, yes, did work.

Q How long did you work on the permit for Local 15?

A Say about six or seven months; maybe less.

Q A total of how many jobs have you received from the union?

A Me?

Q Yes.

A Between two or three.

MR. BRADY: Your Honor, I will object. He has testified a number of times how many times he used the hall.

Q How long have the other jobs lasted aside from the one job?

A This one over here. The one I have now I have the job about seven months.

Q Before that, how long had the jobs that you received from the union lasted?

A About a week, but -- excuse me. My boss called me and said,"I have nothing tomorrow."

I go down to the hall. If the union send me down to another job, I don't want to stay, I go back with my company.

Q How much money did you make as an operating engineer in 1970?

A 1970? This is my first year. About 11,000, working about six months.

Q Would you like to become a crane operator?

A I never try. I think if I try I can.

Q Would you like to try to become a crane operator?

MR. KENNEDY: I object to the question, your Honor, on the grounds that it is irrelevant.

THE COURT: I've heard you ask the questions yourself. What's wrong with the government doing it?

I'll let him ask it.

A I am too old already for that. I too old for that.

Q Have you ever made any efforts in the last year or two to --

A Excuse me?

Q In the last year or two have you tried to become crane operator?

A Never try.

Q Did you ever ask the United States Attorney's Office for assistance in becoming a crane operator?

A Yes, maybe I asked for that, what you call it, but I never filled it out.

The City of New York I asked.

Q Did you ever fill out a questionnaire that you sent to the U. S. Attorney's Office?

A Excuse me?

Q Had you ever filled out a questionnaire that you sent to the U. S. Attorney's Office?

A Yes, I did.

Q I show you Plaintiff's Exhibit 100 for identification and ask if you can identify that (handing).

A This, I don't remember about that, you know.

Q Is that signature on that letter?

A Excuse m

Q Is that your signature on the letter?

A Yes, it's mine.

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Q Is that a questionnaire you filled out?

A Yes, I filled it out, but I get, what you call this paper -- but I never fill it out.

Q You filled out the questionnaire. If you would look at Question 8 --

MR. BRADY: Your Honor --

THE COURT: Is this the point about his becoming a crane operator?

MR. GLASSMAN It is about a question I asked previously.

MR. KENNEDY: Your Honor, he is asking the witness to testify from a document that has not been offered in evidence.

MR. GLASSMAN: I will offer the document in evidence.

THE COURT: All right, fine.

MR. KENNEDY: I have no objection to it, your Honor.

MR. BRADY: I have no objection either.

THE COURT: It is received in evidence.

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(Plaintiff's Exhibit 100 for identification received in evidence.)

Q Mr. Icquierdo, did you fill this questionnaire out truthfully?

A This one?

Q Yes.

A Yes, but I never filled an application for the crane.

Q You never filled out an application for the crane?

A No, never.

MR. GLASSMAN: I have no further questions of the witness.

BY MR. KENNEDY:

Q Did you ever take a City license examination?

A Never.

Q For a crane?

A Never.

Q Have you ever operated a crane at all?

A Never.

Q Have you ever made application to become a member of Local 14?

A Never.

MR. KENNEDY: I have no further questions.

MR. BRADY: No questions.

THE COURT: You are excused.

(Witness excused.)

THE COURT: 10 o'clock tomorrow?
MR. BRADY: That is fine, your Honor.
(Adjourned to October 9, 1974, at 10.00 A.M.)

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WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Harold A. James	3202	3212		
Vivian Palomino	3223	3232		
Leo Aston Latty	3242	3250		
Fitzroy Danvers	3255	3264		
Derek Danvers	3267	3273	3279	3279
Walter Drakes	3281	3288	3301	3301
Anthony Overton Young	3303	3308	3311	
Ruben Icquierdo	3312	3319		

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
100		3327